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# Transcript of Julie Kelly

**Date:** October 15, 2018

**Case:** Barger -v- First Data Corporation, et al.

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Transcript of Julie Kelly  
Conducted on October 15, 2018

1 (1 to 4)

1	3
1 UNITED STATES DISTRICT COURT	1 (Thereupon, Kelly Exhibit 13, a 1-page
2 EASTERN DISTRICT OF NEW YORK	2 letter dated 6/27/18 to Gary Eidelman
3 * * *	3 from Julie Kelly, was marked for
4 STEVEN B. BARGER, an	4 purposes of identification.). . . . . 61
5 individual,	5 (Thereupon, Kelly Exhibit 14, a
6 Plaintiff,	6 multi-page Motion for Sanctions, was
7 vs. CASE NO. 1:17-CV-4869	7 marked for purposes of identification.) 71
8 FIRST DATA CORPORATION, a	8 (Thereupon, Kelly Exhibit 15, a 2-page
9 Delaware corporation; and	9 Defendants' Initial Disclosures, was
10 FRANK BISIGNANO, DAN	10 marked for purposes of identification.) 71
11 CHARRON, ANTHONY MARINO,	11 (Thereupon, Kelly Exhibit 16, 2 2-sided
12 KAREN WHALEN, and RHONDA	12 pages of e-mails, the top dated 7/13/18
13 JOHNSON, each an individual,	13 to Gillian Cooper from Julie Kelly, was
14 Defendants.	14 marked for purposes of identification.) 89
15 * * *	15 (Thereupon, Kelly Exhibit 17, 2 2-sided
16 Deposition of JULIE KELLY, Witness	16 pages of e-mails, the top dated 7/20/18
17 herein, called by the Defendants for	17 to Timothy Callahan from Julie Kelly,
18 cross-examination pursuant to the Rules of Civil	18 was marked for purposes of
19 Procedure, taken before me, Lisa M. Conley	19 identification.). . . . . 100
20 Yungblut, a Notary Public within and for the State	20 (Thereupon, Kelly Exhibit 18, a 1-page
21 of Ohio, at the Potter Stewart Courthouse, 100	21 e-mail dated 7/24/18 to Barry Levin
22 East Fifth Street, Room 203, Cincinnati, Ohio, on	22 from Julie Kelly, was marked for
23 Monday, the 15th of October, 2018, at 12:07 p.m.	23 purposes of identification.). . . . . 107
24 * * *	24
25	25
2	4
1 EXAMINATION CONDUCTED PAGE	1 (Thereupon, Kelly Exhibit 19, a 1-page
2 BY MS. COOPER: 8	2 e-mail dated 7/31/18 to Julie Kelly
3	3 from Gillian Cooper, was marked for
4 EXHIBITS MARKED PAGE	4 purposes of identification.). . . . . 116
5 (Thereupon, Kelly Exhibit 5, a 1-page	5 (Thereupon, Kelly Exhibit 20, 1 page of
6 letter dated 5/16/18 to Julie Kelly	6 e-mails, the top dated 8/2/18 to
7 from Gary Eidelman, with attachment,	7 Gillian Cooper from Julie Kelly, was
8 was marked for purposes of	8 marked for purposes of identification.) 118
9 identification.). . . . . 26	9 (Thereupon, Kelly Exhibit 6, a 1-page
10 (Thereupon, Kelly Exhibit 9, a 1-page	10 letter dated 8/14/18 to Julie Kelly
11 letter dated 5/24/18 to Gary Eidelman	11 from Gillian Cooper, with attachment,
12 from Julie Kelly, was marked for	12 was marked for purposes of
13 purposes of identification.). . . . . 32	13 identification.). . . . . 124
14 (Thereupon, Kelly Exhibit 10, a 1-page	14 (Thereupon, Kelly Exhibit 21, a 4-page,
15 letter dated 5/25/18 to Julie Kelly	15 2-sided Request for Order Granting
16 from Gary Eidelman, was marked for	16 Motion for Sanctions, was marked for
17 purposes of identification.). . . . . 39	17 purposes of identification.). . . . . 126
18 (Thereupon, Kelly Exhibit 11, a 1-page	18 (Thereupon, Kelly Exhibit 7, a 2-page,
19 letter dated 5/29/18 to Gary Eidelman	19 2-sided Order, was marked for purposes
20 from Julie Kelly, was marked for	20 of identification.). . . . . 149
21 purposes of identification.). . . . . 43	21 (Thereupon, Kelly Exhibit 22, a 2-page,
22 (Thereupon, Kelly Exhibit 12, a 1-page,	22 2-sided e-mail dated 10/2/18 to Gary
23 handwritten letter dated 6/25/18 to	23 Eidelman from Julie Kelly, was marked
24 Gary from Julie Kelly, was marked for	24 for purposes of identification.). . . . . 159
25 purposes of identification.). . . . . 58	25

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2 (5 to 8)

5	7
<p>1 (Thereupon, Kelly Exhibit 8, a 2-page, 2 2-sided Notice of Electronic Filing 3 dated 10/9/18, was marked for purposes 4 of identification.) . . . . . 162 5 (Thereupon, Kelly Exhibit 23, a 1-page 6 document titled Confidential, from 7 Julie Kelly, Bates SBB-00780, was 8 marked for purposes of identification.) 169 9 (Thereupon, Kelly Exhibit 24, multiple 10 documents, the top being a 4-page 11 e-mail dated 10/2/18 to Gary Eidelman 12 from Julie Kelly, was marked for 13 purposes of identification.) . . . . . 187 14 (Thereupon, Kelly Exhibit 25, a 15 multi-page document reflecting from FDC 16 Litigation to Julie Kelly, was marked 17 for purposes of identification.) . . . . . 189 18 (Thereupon, Kelly Exhibit 26, a 1-page 19 document reflecting Additional 20 harassment/threats, was marked for 21 purposes of identification.) . . . . . 192 22 (Thereupon, Kelly Exhibit 27, a 3-page, 23 handwritten document dated 11/10/16, 24 was marked for purposes of 25 identification.) . . . . . 194</p>	<p>1 APPEARANCES: 2 On behalf of the Plaintiff: 3 The Law Office of Shawn Shearer 4 By: Shawn Shearer 5 Attorney at Law 6 3839 McKinney Avenue 7 Suite 155-254 8 Dallas, Texas 75204 9 972-803-4499 10 shawn@shearerlaw.pro 11 12 On behalf of the Defendants: 13 Saul Ewing Arnstein &amp; Lehr, LLP 14 By: Gillian A. Cooper 15 Attorney at Law 16 650 College Road East 17 Suite 4000 18 Princeton, New Jersey 08540-6603 19 609-452-5021 20 gillian.cooper@saul.com 21 and 22 Jackson Lewis 23 By: Matthew R. Byrne 24 Attorney at Law 25 2600 PNC Center 26 201 East 5th Street 27 Cincinnati, Ohio 45202 28 513-898-0050 29 Matthew.Byrne@jacksonlewis.com 30 31 ALSO PRESENT: 32 Robin Ording 33 Jill Poole (by phone) 34 Lori Graesser (by phone) 35 * * *</p>
6	8
<p>1 (Thereupon, Kelly Exhibit 28, 1 page of 2 e-mails, the top dated 1/13/17 to Julie 3 Kelly from Robin Ording, was marked for 4 purposes of identification.) . . . . . 196 5 (Thereupon, Kelly Exhibit 29, a 1-page 6 Invoice dated 10/15/18, was marked for 7 purposes of identification.) . . . . . 199 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 JULIE KELLY 2 of lawful age, Witness herein, having been first 3 duly sworn as hereinafter certified, was examined 4 and deposed as follows: 5 CROSS-EXAMINATION 6 BY MS. COOPER: 7 Q. Good afternoon, Ms. Kelly. My name 8 is Gillian Cooper. I'm an attorney at Saul Ewing 9 Arnstein &amp; Lehr. We represent First Data 10 Corporation in this matter. We also represent the 11 individual defendants who are: Frank Bisignano, 12 Dan Charron, Anthony Marino, Karen Whalen, and 13 Rhonda Johnson. We are here today for your 14 deposition, so I just want to go over a couple of 15 procedural things and some ground rules. So in 16 the room with us today, we have Robin Ording, who 17 is the corporate representative for First Data, so 18 she's here in that capacity. We also have with us 19 Matthew Byrne from Jackson Lewis; he is local 20 counsel here in Ohio. On the phone, we have Lori 21 Graesser and Jill Poole, who are in-house counsel 22 at First Data. 23 And Mr. Shearer is the plaintiff's, 24 Steve Barger's, attorney. Is it correct that he 25 does not represent you in connection with this</p>

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3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 deposition?</p> <p>2 <b>A. That's correct.</b></p> <p>3 Q. Okay.</p> <p>4 MR. SHEARER: But I want to make</p> <p>5 clear for the record -- this is Shawn Shearer of</p> <p>6 the law office of Shawn Shearer, counsel for the</p> <p>7 plaintiff, Steve Barger -- that I am also counsel</p> <p>8 for Ms. Kelly in connection with her complaint and</p> <p>9 charge of discrimination that has been filed with</p> <p>10 the Ohio Civil Rights Commission currently being</p> <p>11 investigated, right to sue letter has not yet been</p> <p>12 issued, and so that representation needs to be</p> <p>13 recognized.</p> <p>14 MS. COOPER: Okay. So it's noted for</p> <p>15 the record.</p> <p>16 BY MS. COOPER:</p> <p>17 Q. So also here in the room is</p> <p>18 Ms. Yungblut. Am I saying that correctly? Okay.</p> <p>19 She is the court reporter. It is her job to take</p> <p>20 down everything that we say today. So for her</p> <p>21 purposes and for her sanity, what we try to do is</p> <p>22 not talk over one another, because she can't write</p> <p>23 down what we're saying if we're both talking at</p> <p>24 the same time. So I will do my very best to allow</p> <p>25 you to finish what you're saying, and I ask that</p>	<p style="text-align: right;">11</p> <p>1 Q. Do you understand that your testimony</p> <p>2 is under oath and subject to the penalty of</p> <p>3 perjury?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. If you don't understand one of my</p> <p>6 questions, just let me know, and I can rephrase</p> <p>7 it. If you need a break, let me know, and we will</p> <p>8 take it. There is a court order that sets forth</p> <p>9 what breaks will take place today. The order,</p> <p>10 which I will go through a little bit more</p> <p>11 specifically in a few moments, provides for two</p> <p>12 5-minute breaks and then a 15-minute break.</p> <p>13 <b>A. Okay.</b></p> <p>14 Q. The one thing I would like to note,</p> <p>15 is that if I've asked a question, that you answer</p> <p>16 the question before we take the break so that</p> <p>17 there's no pending question before a break.</p> <p>18 <b>A. Got it.</b></p> <p>19 Q. Are you currently taking any</p> <p>20 medication that would affect your ability to</p> <p>21 understand and answer my questions today?</p> <p>22 <b>A. I am taking medication, but I don't</b></p> <p>23 <b>believe it would impact.</b></p> <p>24 Q. Okay. That's fine. Is there any</p> <p>25 reason that you would not be able to give full,</p>
<p style="text-align: right;">10</p> <p>1 you do the same and allow me to finish my question</p> <p>2 before you begin to answer.</p> <p>3 I also ask -- she can't write down or</p> <p>4 can't record nonverbal cues. So if you were to</p> <p>5 shake your head yes or no, she can't record that</p> <p>6 down, so I just ask that all of your answers be</p> <p>7 verbal --</p> <p>8 <b>A. Understood.</b></p> <p>9 Q. -- so that the record is clear.</p> <p>10 Okay. So we're going to start with some</p> <p>11 introduction. I'm going to ask that you state</p> <p>12 your name and your home address for the record.</p> <p>13 <b>A. Julie Kelly. 823 Dorgene Lane,</b></p> <p>14 <b>Cincinnati, Ohio 45244.</b></p> <p>15 Q. Okay. You understand that you are</p> <p>16 under oath today?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Do you understand that that means</p> <p>19 that you are sworn to tell the truth?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. You understand that even though we</p> <p>22 are in an informal setting, your testimony has the</p> <p>23 same force and effect as if we were in front of a</p> <p>24 judge and a jury?</p> <p>25 <b>A. Yes.</b></p>	<p style="text-align: right;">12</p> <p>1 complete, and truthful answers to my questions</p> <p>2 today?</p> <p>3 <b>A. Not that I know of.</b></p> <p>4 Q. What did you do to prepare for</p> <p>5 today's deposition?</p> <p>6 <b>A. Well, I read what I could on PACER.</b></p> <p>7 <b>I do have a regular public PACER account.</b></p> <p>8 Q. Okay.</p> <p>9 <b>A. However, I do not pay for any</b></p> <p>10 <b>documents. So that's really my knowledge. I</b></p> <p>11 <b>would like you to give me a summary of the charge</b></p> <p>12 <b>or the case of Steve's.</b></p> <p>13 Q. So we will -- I will ask you very</p> <p>14 specific questions. Because this is your</p> <p>15 deposition, you are not permitted to ask</p> <p>16 questions. If you have a question about a</p> <p>17 question that I have asked or need some context,</p> <p>18 you can ask me that.</p> <p>19 But I want to talk -- you said you</p> <p>20 checked PACER. What exactly did you look at?</p> <p>21 <b>A. Just the docket listings.</b></p> <p>22 Q. The docket listings for what?</p> <p>23 <b>A. For the Barger case.</b></p> <p>24 Q. For the case that's pending in New</p> <p>25 York?</p>

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4 (13 to 16)

<p style="text-align: right;">13</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Okay. So you say you have a public</p> <p>3 access account?</p> <p>4 <b>A. Um-hmm.</b></p> <p>5 Q. Were you able to see any of the</p> <p>6 filings in the New York case?</p> <p>7 <b>A. I think the public ones I could pay</b></p> <p>8 <b>for, but I don't have the means to pay for.</b></p> <p>9 Q. Okay. So you didn't actually click</p> <p>10 the link and pull up or download any of the</p> <p>11 documents?</p> <p>12 <b>A. No. I think it charges \$5.50 or -- I</b></p> <p>13 <b>don't know.</b></p> <p>14 Q. Okay. Did you do anything else to</p> <p>15 prepare for today's deposition?</p> <p>16 <b>A. I did look for documents as the</b></p> <p>17 <b>subpoena --</b></p> <p>18 Q. Okay, okay. We'll talk about the</p> <p>19 documents in a couple of minutes. Did you meet</p> <p>20 with any attorney to talk about --</p> <p>21 <b>A. I can't afford to have another</b></p> <p>22 <b>attorney, quite honestly, so no.</b></p> <p>23 Q. Okay. Did you talk to Mr. Shearer</p> <p>24 about today's deposition?</p> <p>25 <b>A. I talked to Mr. Shearer about my</b></p>	<p style="text-align: right;">15</p> <p>1 Q. Okay. Did you discuss the deposition</p> <p>2 at all during --</p> <p>3 <b>A. No.</b></p> <p>4 Q. -- those conversations?</p> <p>5 Okay. What did you discuss?</p> <p>6 <b>A. Just that, you know, I might need a</b></p> <p>7 <b>ride and we're both going to the same place.</b></p> <p>8 Q. Okay. When did that conversation</p> <p>9 take place?</p> <p>10 <b>A. This morning, quite honestly.</b></p> <p>11 Q. So you did not know how you were</p> <p>12 getting to today's deposition until this morning?</p> <p>13 <b>A. No. You know, at first I was going</b></p> <p>14 <b>to have my oldest daughter bring me, quite</b></p> <p>15 <b>honestly.</b></p> <p>16 Q. Okay. Then, how did that change?</p> <p>17 <b>A. She was out with her friends last</b></p> <p>18 <b>night and didn't get home until earlier this</b></p> <p>19 <b>morning.</b></p> <p>20 Q. Okay.</p> <p>21 <b>A. Does that -- sorry.</b></p> <p>22 Q. This morning when you realized that</p> <p>23 your daughter would not drive you today, did you</p> <p>24 reach out to Mr. Shearer?</p> <p>25 <b>A. I did.</b></p>
<p style="text-align: right;">14</p> <p>1 <b>individual case.</b></p> <p>2 Q. Okay. I'm not asking about your</p> <p>3 charge.</p> <p>4 <b>A. Right. So no.</b></p> <p>5 Q. Okay. So you did not talk to him</p> <p>6 about today's deposition?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Did you arrive with Mr. Shearer</p> <p>9 today?</p> <p>10 <b>A. He did bring me because I am taking</b></p> <p>11 <b>medication.</b></p> <p>12 Q. Okay. So were you not able to drive?</p> <p>13 <b>A. You know, I may be able to drive, but</b></p> <p>14 <b>I'm taking precautions right now.</b></p> <p>15 Q. Okay. Because you're concerned about</p> <p>16 your ability to drive, does that have any effect</p> <p>17 on your ability to answer questions?</p> <p>18 <b>A. I don't think so.</b></p> <p>19 Q. Okay. So you arranged with</p> <p>20 Mr. Shearer that he would drive you to today's</p> <p>21 deposition?</p> <p>22 <b>A. Um-hmm.</b></p> <p>23 Q. So did you speak to him about</p> <p>24 setting -- or about arranging that?</p> <p>25 <b>A. Yes.</b></p>	<p style="text-align: right;">16</p> <p>1 Q. Okay. Was it via text or via phone?</p> <p>2 <b>A. I just called him on the phone, quite</b></p> <p>3 <b>honestly. We're both going to the same place, so</b></p> <p>4 <b>that's it.</b></p> <p>5 Q. Prior to today's conversation, did</p> <p>6 you have any conversations with Mr. Shearer about</p> <p>7 today's deposition?</p> <p>8 <b>A. No.</b></p> <p>9 MR. SHEARER: I'm objecting to the</p> <p>10 extent that this requires any privileged</p> <p>11 conversation.</p> <p>12 MS. COOPER: Noted. We're talking</p> <p>13 about today's deposition. We're not talking</p> <p>14 about --</p> <p>15 MR. SHEARER: This is where we're</p> <p>16 going to have an issue today because today's</p> <p>17 deposition and the proceedings that got us here</p> <p>18 are exactly going to be a part of the claim that's</p> <p>19 pending before the OCRC, and it's also the claim</p> <p>20 that is part of the amended complaint, which is</p> <p>21 the behavior of Saul Ewing and First Data from the</p> <p>22 time the first subpoena was noticed until today is</p> <p>23 part of the claim. So any conversation regarding</p> <p>24 how that impacts her claim is privileged and she</p> <p>25 can't answer it.</p>

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5 (17 to 20)

<p>1 MS. COOPER: But you don't represent 2 her in connection with this deposition. 3 MR. SHEARER: No, no. Let's look -- 4 if you want to do this now, it says any person, 5 any person can raise a claim of privilege in this 6 deposition. It doesn't have to be a party, it 7 doesn't have to be counsel for the witness, any 8 person can. 9 MS. COOPER: What is the privilege? 10 MR. SHEARER: The privilege is any 11 conversations that I have had with her about this 12 deposition or about what has led up to this 13 deposition and how it impacts her case and her 14 claims with the OCRC is privileged. 15 MS. COOPER: You do not represent 16 Ms. Kelly in connection with this deposition. 17 MR. SHEARER: It doesn't matter. 18 Read -- 19 MS. COOPER: It does matter. 20 MR. SHEARER: Rule 30(c)(1) says any 21 person in a deposition, any person, it doesn't say 22 a party, it doesn't say a counsel. 23 MS. COOPER: Right, but there has to 24 be an attorney-client relationship. 25 MR. SHEARER: There is an</p>	17	<p>1 Q. Besides Mr. Shearer, did you talk to 2 anyone else about this deposition? 3 <b>A. My husband.</b> 4 Q. Okay. What were those conversations? 5 <b>A. Oh, just prepping me. He's done them</b> 6 <b>before, I've never done them.</b> 7 Q. How was he prepping you? 8 <b>A. Just general conversation.</b> 9 Q. What sort of questions? 10 <b>A. You look people in the eye, you</b> 11 <b>answer the questions directly, those types of</b> 12 <b>things.</b> 13 Q. Okay. What have you told your 14 husband about this deposition and about 15 Mr. Barger's case? 16 <b>A. Well, you know, I don't know much</b> 17 <b>about the case other than what I've read on PACER,</b> 18 <b>like I previously said to you, so he's going to</b> 19 <b>know even less than that. You know, all we really</b> 20 <b>know is there's -- what is it listed as -- an FMLA</b> 21 <b>case in the federal court.</b> 22 Q. Did you have any other conversations 23 with -- besides your husband, with anyone else 24 about today's deposition? 25 <b>A. No, ma'am.</b></p>	19
<p>1 attorney-client relationship. 2 MS. COOPER: Not in connection with 3 this deposition. 4 MR. SHEARER: Well, then, ask her 5 about the deposition, but there's an 6 attorney-client -- the privilege doesn't have to 7 apply to this deposition. The privilege applies 8 to her claim. 9 MS. COOPER: I'm not asking about her 10 claim. 11 MR. SHEARER: Well, to the extent 12 that you ask her about conversations about this 13 deposition, they impact her claim. 14 MS. COOPER: So now you do represent 15 her in connection with this deposition? 16 MR. SHEARER: I represent her in 17 connection with her claim against First Data. 18 MS. COOPER: We're not going to talk 19 about that. 20 MR. SHEARER: Well, we are talking 21 about that. This deposition is her claim. 22 MS. COOPER: Mr. Shearer, your 23 objection is noted for the record. We will 24 proceed. 25 BY MS. COOPER:</p>	18	<p>1 Q. Okay. Did you have any conversations 2 with anyone from Mr. Shearer's office about 3 today's deposition or Mr. Barger's claim? 4 <b>A. No, ma'am.</b> 5 Q. Okay. What documents did you review 6 for today's deposition? 7 <b>A. Well, I just read online on PACER the</b> 8 <b>dockets, so they weren't documents. It was</b> 9 <b>just --</b> 10 Q. Okay. Did you review any e-mails, 11 any e-mails that you might have had with 12 Mr. Barger or Mr. Shearer about today's deposition 13 or any e-mails you might have had with anyone from 14 my firm? 15 <b>A. I have some e-mails from you I looked</b> 16 <b>at.</b> 17 Q. Okay. 18 <b>A. And I think maybe one from</b> 19 <b>Mr. Eidelman.</b> 20 Q. Okay. All right. Have you ever 21 given a deposition before? 22 <b>A. No.</b> 23 Q. Have you ever testified in court 24 before? 25 <b>A. No.</b></p>	20

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6 (21 to 24)

21	<p>1 Q. Have you ever been a party to a</p> <p>2 lawsuit before?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Have you ever been a party to a</p> <p>5 criminal proceeding?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. We're just going to go through</p> <p>8 some background questions, let me get to know you</p> <p>9 a little bit more. Did you graduate from high</p> <p>10 school?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. When did you graduate?</p> <p>13 <b>A. 1996.</b></p> <p>14 Q. Okay. Did you go to college?</p> <p>15 <b>A. I did.</b></p> <p>16 Q. Where did you go?</p> <p>17 <b>A. I went to Catawba College in North</b></p> <p>18 <b>Carolina, and then I also did work at FIU, Florida</b></p> <p>19 <b>International University. And then I also did</b></p> <p>20 <b>lots of work through Harvard Business School. I</b></p> <p>21 <b>did courses through there and various other</b></p> <p>22 <b>professional development and technical courses.</b></p> <p>23 Q. Okay. So when you say worked, you</p> <p>24 mean you were employed by those institutions or</p> <p>25 you did school work, coursework?</p>	23
22	<p>1 <b>A. I did coursework, and most of those</b></p> <p>2 <b>were paid for and sponsored by First Data.</b></p> <p>3 Q. Okay. Do you have a bachelor's</p> <p>4 degree?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Okay. Do you have an associate's</p> <p>7 degree?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Are you currently employed?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Who was your last employer?</p> <p>12 <b>A. First Data.</b></p> <p>13 Q. Okay. And when did that employment</p> <p>14 end?</p> <p>15 <b>A. That ended November 30th, 2017.</b></p> <p>16 Q. Okay. When did you start working for</p> <p>17 First Data?</p> <p>18 <b>A. I started working for First Data</b></p> <p>19 <b>officially as a full-time employee, I believe it</b></p> <p>20 <b>was April 15th, 1998.</b></p> <p>21 Q. Okay, okay. So you were employed by</p> <p>22 First Data for almost 20 years?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Okay. All right. So I do want to</p> <p>25 make very clear that the questions -- a lot of the</p>	24
	<p>1 questions I'm going to be asking you about are</p> <p>2 about things that have been filed in this</p> <p>3 miscellaneous action, and we're going to go</p> <p>4 through some of the documents you drafted and</p> <p>5 filed and then some of the responses. And then</p> <p>6 we're going to talk about your relationship with</p> <p>7 Mr. Barger when he was head of the sales</p> <p>8 transformation group and we'll talk a little bit</p> <p>9 about that. I want to make it very clear that we</p> <p>10 are not talking about anything that relates to</p> <p>11 your charge that's currently pending with the Ohio</p> <p>12 Commission of Human Rights.</p> <p>13 What is your e-mail address?</p> <p>14 <b>A. J U L underscore Kelly at mac dot</b></p> <p>15 <b>com. And I also have one at J U L underscore Glad</b></p> <p>16 <b>at mac dot com.</b></p> <p>17 Q. Why the two e-mail addresses?</p> <p>18 <b>A. The original Glad is 20-plus years</b></p> <p>19 <b>old, and I've just never changed it. So the other</b></p> <p>20 <b>one is an alias, it just goes with the same</b></p> <p>21 <b>account.</b></p> <p>22 Q. So if someone were to e-mail the</p> <p>23 J U L underscore Glad e-mail account, does that</p> <p>24 get forwarded to --</p> <p>25 <b>A. It's the same account.</b></p>	

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7 (25 to 28)

<p style="text-align: right;">25</p> <p>1 Q. Does anybody else have the capability</p> <p>2 to send an e-mail from either of those e-mail</p> <p>3 accounts?</p> <p>4 <b>A. Not that I'm aware of.</b></p> <p>5 Q. Okay. When did you create the J U L</p> <p>6 underscore Kelly at mac dot com?</p> <p>7 <b>A. Maybe 15 years ago.</b></p> <p>8 Q. And you still use both?</p> <p>9 <b>A. I primarily use Kelly.</b></p> <p>10 Q. Okay. I've noticed that on the</p> <p>11 e-mails that you send, you will copy the other</p> <p>12 e-mail; if it comes from J U L underscore Kelly,</p> <p>13 you'll copy the J U L underscore Glad e-mail</p> <p>14 account?</p> <p>15 <b>A. Um-hmm.</b></p> <p>16 Q. Is there a reason that you do that?</p> <p>17 <b>A. I just copy myself, and so in my</b></p> <p>18 <b>address book, it says Julie.</b></p> <p>19 Q. Okay.</p> <p>20 <b>A. So whether it's Glad or -- I have no</b></p> <p>21 <b>idea.</b></p> <p>22 Q. Okay. All right.</p> <p>23 <b>A. It's just common practice --</b></p> <p>24 Q. Okay.</p> <p>25 <b>A. -- for me to copy myself.</b></p>	<p style="text-align: right;">27</p> <p>1 is the original that will go into the record. So</p> <p>2 I just ask that you don't write on any of these.</p> <p>3 <b>A. Okay, okay.</b></p> <p>4 MS. COOPER: And I have copies for</p> <p>5 all of you.</p> <p>6 BY MS. COOPER:</p> <p>7 Q. Have you seen this document before?</p> <p>8 <b>A. Oh, yes.</b></p> <p>9 Q. Okay. When did you see it?</p> <p>10 <b>A. I first received and saw this</b></p> <p>11 <b>document on May 23rd, 2018.</b></p> <p>12 MS. COOPER: Okay. And so let me</p> <p>13 just state for the record that this is the letter</p> <p>14 dated May 16th, 2018 from Gary Eidelman to</p> <p>15 Ms. Kelly enclosing the subpoena, that together is</p> <p>16 Kelly Exhibit 5.</p> <p>17 MR. SHEARER: For the record, can you</p> <p>18 indicate the date of this again?</p> <p>19 MS. COOPER: The subpoena is dated</p> <p>20 May 16, 2018, and it commands appearance on June</p> <p>21 25th, 2018. Did I say May 16, 2018? I don't know</p> <p>22 if I said '16 or '18.</p> <p>23 BY MS. COOPER:</p> <p>24 Q. Okay. So you said you received this</p> <p>25 document on May 23rd. How did you receive it?</p>
<p style="text-align: right;">26</p> <p>1 Q. Okay. So the first thing I want to</p> <p>2 give you to is -- so under the Federal Rules,</p> <p>3 you're entitled to a witness fee for appearing</p> <p>4 here today for your deposition, so I'm going to</p> <p>5 give you the check. Under the court order, we're</p> <p>6 also reimbursing you for your child care costs.</p> <p>7 So I just ask that when you receive that, I don't</p> <p>8 know if it's a bill or an invoice or --</p> <p>9 <b>A. I do have an invoice, but we'll see</b></p> <p>10 <b>if it goes the full amount.</b></p> <p>11 Q. Okay. So let me give you this, this</p> <p>12 is the witness fee, so I just -- it's for \$62.80</p> <p>13 based on the federal requirements. I just want to</p> <p>14 give you that.</p> <p>15 <b>A. Okay.</b></p> <p>16 Q. And then we're going to go ahead</p> <p>17 and -- these documents I've already pre-marked.</p> <p>18 (Thereupon, Kelly Exhibit 5, a 1-page</p> <p>19 letter dated 5/16/18 to Julie Kelly from Gary</p> <p>20 Eidelman, with attachment, was marked for purposes</p> <p>21 of identification.)</p> <p>22 BY MS. COOPER:</p> <p>23 Q. So I'm going to show you what has</p> <p>24 been marked as Kelly 5. The one thing I ask that</p> <p>25 you don't write anywhere on this document. This</p>	<p style="text-align: right;">28</p> <p>1 <b>A. There was -- I was out back with my</b></p> <p>2 <b>children in the pool, and my husband kind of came</b></p> <p>3 <b>and got me and said there's a delivery, a FedEx</b></p> <p>4 <b>deliveryman at the door, and he needs you to come</b></p> <p>5 <b>sign for a package. So it took me a little while</b></p> <p>6 <b>to get to the door because I had children outside.</b></p> <p>7 <b>You can't leave young children in a pool. And so</b></p> <p>8 <b>I walked over, and there was a guy dressed in</b></p> <p>9 <b>khakis and a purple shirt and had a FedEx box in</b></p> <p>10 <b>his hand, one of those small packages, letter</b></p> <p>11 <b>package. And he took a white envelope and handed</b></p> <p>12 <b>it to me and said: Ms. Kelly, you've been served,</b></p> <p>13 <b>and then walked away.</b></p> <p>14 <b>So at that point, I was a little</b></p> <p>15 <b>taken aback. What's going on? You know, I</b></p> <p>16 <b>thought this was a FedEx person, but, clearly, it</b></p> <p>17 <b>wasn't. A little upset. My children are, you</b></p> <p>18 <b>know, obviously wanting to get back in the pool.</b></p> <p>19 <b>I opened the package and I see a subpoena for a</b></p> <p>20 <b>Steven Barger versus First Data case and I'm being</b></p> <p>21 <b>commanded by the court to show up for a</b></p> <p>22 <b>deposition.</b></p> <p>23 Q. Okay. Did you have any conversations</p> <p>24 with the process server?</p> <p>25 <b>A. I didn't, not that I recall.</b></p>

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8 (29 to 32)

29	<p>1 Q. Okay. Did he say anything to you?</p> <p>2 <b>A. I think he asked me if I was</b></p> <p>3 <b>Mrs. Kelly, Mrs. Julie Kelly, my name.</b></p> <p>4 Q. Okay. You said he was wearing khakis</p> <p>5 and a purple shirt; is that correct?</p> <p>6 <b>A. I believe so.</b></p> <p>7 Q. Okay. What kind of car was he</p> <p>8 driving?</p> <p>9 <b>A. From my front door, you cannot see my</b></p> <p>10 <b>driveway, so I see no vehicles.</b></p> <p>11 Q. Okay. Was he wearing any clothing</p> <p>12 that identified FedEx?</p> <p>13 <b>A. I think what tipped me off was,</b></p> <p>14 <b>obviously, the khakis and the FedEx package.</b></p> <p>15 Q. Okay. So he was holding a FedEx</p> <p>16 package. Did he say that he worked for FedEx?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Okay. Did he --</p> <p>19 <b>A. But he was impersonating, I'm sorry,</b></p> <p>20 <b>clearly to me and my family and my children, a</b></p> <p>21 <b>FedEx employee.</b></p> <p>22 Q. Why do you say he was impersonating a</p> <p>23 FedEx employee?</p> <p>24 <b>A. Just the way he acted with the</b></p> <p>25 <b>clothing, the way he was at the door saying he had</b></p>	31	<p>1 Mr. Shearer about this deposition subpoena?</p> <p>2 <b>A. No. Mr. Shearer and I spoke about my</b></p> <p>3 <b>own claim.</b></p> <p>4 Q. Okay. So did you tell him that he</p> <p>5 did not have authorization to accept service?</p> <p>6 <b>A. I don't even know what that means.</b></p> <p>7 <b>Sorry.</b></p> <p>8 Q. Okay. So you did not --</p> <p>9 <b>A. Why would someone accept service;</b></p> <p>10 <b>what does that mean?</b></p> <p>11 Q. So you did not have a conversation</p> <p>12 about authorization of accepting service?</p> <p>13 <b>A. No. I have no idea what that means.</b></p> <p>14 Q. Okay. Did you say anything to the</p> <p>15 process server that you were expecting the</p> <p>16 subpoena?</p> <p>17 <b>A. Not that I can recall.</b></p> <p>18 Q. Okay. Do you remember what time the</p> <p>19 process server showed up to your house?</p> <p>20 <b>A. You know, it was evening, after</b></p> <p>21 <b>dinner. It's kind of a blur, but I would say</b></p> <p>22 <b>between 6:30 and 7:30.</b></p> <p>23 MS. COOPER: Okay. We pre-marked</p> <p>24 these, so I will leave these pre-marked, but this</p> <p>25 will be then Kelly 9.</p>
30	<p>1 <b>a package for me and that I needed to sign for,</b></p> <p>2 <b>and the FedEx box. I mean, to an average person,</b></p> <p>3 <b>I think that would make you think it's something</b></p> <p>4 <b>from FedEx.</b></p> <p>5 Q. But he did not say that he was FedEx?</p> <p>6 <b>A. No. He impersonated a FedEx person,</b></p> <p>7 <b>clearly.</b></p> <p>8 Q. Okay. Did you have any idea that you</p> <p>9 would be served with a subpoena?</p> <p>10 <b>A. I didn't. This was quite shocking.</b></p> <p>11 Q. Okay. So I'm not going to introduce</p> <p>12 it as an exhibit, but I'm going to read from a</p> <p>13 letter or an e-mail dated May 10, 2018 from</p> <p>14 Mr. Shearer to Mr. Eidelman of my office. The</p> <p>15 Subject is: Deposition of Julie Kelly.</p> <p>16 MR. SHEARER: Why aren't we entering</p> <p>17 this as an exhibit?</p> <p>18 MS. COOPER: Because I don't want to.</p> <p>19 I'm just going to reference one part and I'm going</p> <p>20 to ask you a question about it.</p> <p>21 BY MS. COOPER:</p> <p>22 Q. So in this e-mail, Mr. Shearer</p> <p>23 writes: Ms. Kelly has not given me authorization</p> <p>24 to accept service of process on her behalf in any</p> <p>25 matter. So did you have a conversation with</p>	32	<p>1 (Thereupon, Kelly Exhibit 9, a 1-page</p> <p>2 letter dated 5/24/18 to Gary Eidelman from Julie</p> <p>3 Kelly, was marked for purposes of identification.)</p> <p>4 MR. SHEARER: What do you want her to</p> <p>5 do with 5?</p> <p>6 MS. COOPER: I will take that back.</p> <p>7 Thank you.</p> <p>8 BY MS. COOPER:</p> <p>9 Q. Okay. So when you received the</p> <p>10 subpoena, you said it was May 23rd. What did you</p> <p>11 do after you saw the subpoena?</p> <p>12 <b>A. Let's see, it is a blur. I was</b></p> <p>13 <b>really upset because, quite honestly, I didn't</b></p> <p>14 <b>know why I was being, you know, summoned or</b></p> <p>15 <b>commanded to speak to you guys. I think at first</b></p> <p>16 <b>I talked to a few attorneys, friends that I just</b></p> <p>17 <b>have, relatives actually, to see if FedEx was</b></p> <p>18 <b>allowed to distribute subpoenas or serve</b></p> <p>19 <b>subpoenas, whatever you want to call it, and they</b></p> <p>20 <b>said no.</b></p> <p>21 Q. Okay. Who were these people that you</p> <p>22 spoke to?</p> <p>23 <b>A. They're just family.</b></p> <p>24 Q. What were their names?</p> <p>25 <b>A. Just my family.</b></p>

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9 (33 to 36)

33	<p>1 Q. Okay. But what -- how many people</p> <p>2 did you talk to?</p> <p>3 <b>A. Just two.</b></p> <p>4 Q. What were those two people's names?</p> <p>5 <b>A. My cousin Brian and my cousin Tommy.</b></p> <p>6 Q. Okay. Did you talk to anybody else</p> <p>7 about --</p> <p>8 <b>A. My husband was there, so --</b></p> <p>9 Q. Okay. Did you talk to Mr. Shearer</p> <p>10 about the subpoena?</p> <p>11 <b>A. I don't -- no, I don't believe so.</b></p> <p>12 Q. Okay. So you received the subpoena,</p> <p>13 you spoke to a couple of people, family members,</p> <p>14 about the subpoena?</p> <p>15 <b>A. Well, really, it was just can</b></p> <p>16 <b>FedEx -- that was my big question, can FedEx serve</b></p> <p>17 <b>subpoenas.</b></p> <p>18 Q. Okay. Did you talk to anyone at</p> <p>19 FedEx?</p> <p>20 <b>A. I did. I called to see if I could</b></p> <p>21 <b>get some type of tracking number.</b></p> <p>22 Q. Okay. When was that conversation</p> <p>23 with FedEx?</p> <p>24 <b>A. It was that evening.</b></p> <p>25 Q. Okay. So on the 23rd?</p>	35	<p>1 going a little bit out of order. You can take a</p> <p>2 couple of moments and look at the document I just</p> <p>3 handed you. Do you recognize this document?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. What is it?</p> <p>6 <b>A. This is a letter I wrote to Mr. Gary</b></p> <p>7 <b>Eidelman on May 24th, 2018.</b></p> <p>8 Q. Did you draft this letter?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Did you show anybody this letter?</p> <p>11 <b>A. Probably my husband.</b></p> <p>12 Q. Okay. Did anybody review the letter</p> <p>13 or make any edits?</p> <p>14 <b>A. Probably my husband.</b></p> <p>15 Q. Okay. Did you discuss it with</p> <p>16 anyone?</p> <p>17 <b>A. Probably my husband.</b></p> <p>18 Q. Okay. So did you discuss this letter</p> <p>19 with Mr. Shearer or anyone at --</p> <p>20 MR. SHEARER: Objection. No, no, you</p> <p>21 can't. The discussion --</p> <p>22 MS. COOPER: This letter is not</p> <p>23 privileged.</p> <p>24 MR. SHEARER: Right, but the</p> <p>25 discussion is.</p>
34	<p>1 <b>A. Um-hmm.</b></p> <p>2 Q. What did FedEx tell you?</p> <p>3 <b>A. They told me that they do not issue</b></p> <p>4 <b>subpoenas.</b></p> <p>5 Q. Okay. And so after --</p> <p>6 <b>A. And they were going to look in to see</b></p> <p>7 <b>if someone -- they were going to investigate to</b></p> <p>8 <b>see if someone -- a FedEx delivery person was</b></p> <p>9 <b>being impersonated or someone was impersonating a</b></p> <p>10 <b>FedEx person.</b></p> <p>11 Q. Okay. Did you talk to anybody else?</p> <p>12 <b>A. (Shaking head.)</b></p> <p>13 Q. No. Okay. When did you first</p> <p>14 have -- what was the first time you had any</p> <p>15 contact with either Gary Eidelman, myself, or</p> <p>16 anybody at the Saul Ewing Arnstein &amp; Lehr law</p> <p>17 firm?</p> <p>18 <b>A. Probably that subpoena.</b></p> <p>19 Q. So that subpoena was the first time</p> <p>20 you knew that the firm existed?</p> <p>21 <b>A. Yeah.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. Yes. I'm sorry.</b></p> <p>24 Q. So I'm going to show you what we have</p> <p>25 marked as Kelly 9, and I apologize that we are</p>	36	<p>1 MS. COOPER: No, it's not.</p> <p>2 MR. SHEARER: It is. If she's</p> <p>3 seeking legal advice, if she's seeking legal</p> <p>4 advice, whether she talked to me or not, you can't</p> <p>5 ask whether she talked to me about legal advice.</p> <p>6 MS. COOPER: I'm not asking about</p> <p>7 legal advice. I'm asking about this letter that</p> <p>8 was sent to Mr. Eidelman about this deposition.</p> <p>9 MR. SHEARER: Okay. And your</p> <p>10 question is: Did I give her legal advice about</p> <p>11 this letter?</p> <p>12 MS. COOPER: That was not my</p> <p>13 question. My question was: Did she talk to you</p> <p>14 about this letter, that's not legal advice.</p> <p>15 MR. SHEARER: Okay. That's fine.</p> <p>16 You can go ahead and answer that. I mean, you can</p> <p>17 go ahead and answer that.</p> <p>18 BY MS. COOPER:</p> <p>19 Q. Did you talk to Mr. Shearer about</p> <p>20 this letter?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Did you talk to Mr. Shearer about the</p> <p>23 subpoena?</p> <p>24 <b>A. No. I mean, not that -- not then. I</b></p> <p>25 <b>mean, maybe eventually.</b></p>

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10 (37 to 40)

<p style="text-align: right;">37</p> <p>1 Q. Did you talk to anyone at</p> <p>2 Mr. Shearer's office about the subpoena?</p> <p>3 <b>A. (Shaking head.)</b></p> <p>4 Q. So I'm going to ask -- in the third</p> <p>5 paragraph, I'm going to ask you to read that</p> <p>6 paragraph that begins, I am currently unemployed,</p> <p>7 if you can read that out loud for the record,</p> <p>8 please.</p> <p>9 <b>A. Out loud?</b></p> <p>10 Q. Yes.</p> <p>11 <b>A. I am currently unemployed and the</b></p> <p>12 <b>full-time care taker of four children, three under</b></p> <p>13 <b>the age of 5, my brother with learning</b></p> <p>14 <b>disabilities, and my elderly mother-in-law. I</b></p> <p>15 <b>have commitments on June 25th that I am unable to</b></p> <p>16 <b>change. If I had more advance notice, I might be</b></p> <p>17 <b>able to find some friends or save some money to</b></p> <p>18 <b>pay for their care for one day, but it would take</b></p> <p>19 <b>at least a few months for me to save that much</b></p> <p>20 <b>money, especially during the summer. I can try to</b></p> <p>21 <b>decide how to cut my budget and let you know when</b></p> <p>22 <b>I think I might have enough money saved. No</b></p> <p>23 <b>matter what, I am not available at all on June</b></p> <p>24 <b>25th.</b></p> <p>25 Q. Okay. I'm also going to ask you that</p>	<p style="text-align: right;">39</p> <p>1 <b>previously up until the scheduled deposition. No</b></p> <p>2 <b>cancellation, no information that it was</b></p> <p>3 <b>rescheduled, no new subpoena. I was commanded by</b></p> <p>4 <b>the court to attend, and that's when I changed</b></p> <p>5 <b>what I had going on that day.</b></p> <p>6 Q. You said you received no</p> <p>7 communication from Mr. Eidelman, my law firm, or</p> <p>8 myself after the subpoena?</p> <p>9 <b>A. No. After, I think there was one</b></p> <p>10 <b>more letter.</b></p> <p>11 Q. Okay. At any time, when you became</p> <p>12 available on June 25th, did you contact Saul Ewing</p> <p>13 or Mr. Eidelman or myself to let us know that you</p> <p>14 were now available?</p> <p>15 <b>A. You know, I'm in business. Something</b></p> <p>16 <b>is put on my calendar and has not been changed</b></p> <p>17 <b>from the originator, I am obligated to show up.</b></p> <p>18 Q. Okay. I can take that back. Thank</p> <p>19 you.</p> <p>20 (Thereupon, Kelly Exhibit 10, a</p> <p>21 1-page letter dated 5/25/18 to Julie Kelly from</p> <p>22 Gary Eidelman, was marked for purposes of</p> <p>23 identification.)</p> <p>24 BY MS. COOPER:</p> <p>25 Q. I'm going to show you what has been</p>
<p style="text-align: right;">38</p> <p>1 you read the last paragraph beginning: I'm sorry.</p> <p>2 <b>A. I'm sorry I can't come to talk about</b></p> <p>3 <b>my complaint on June 25th. Maybe I can have my</b></p> <p>4 <b>representative from the State of Ohio call you to</b></p> <p>5 <b>find a time in July. It will take me at least</b></p> <p>6 <b>that long at least to save enough money. I look</b></p> <p>7 <b>forward to your response.</b></p> <p>8 Q. Okay. So you sent this letter to</p> <p>9 Mr. Eidelman on May 24th. In it you say that you</p> <p>10 have commitments on June 25th that you're unable</p> <p>11 to change and that you say, no matter what, I am</p> <p>12 not available at all on June 25th; that's correct?</p> <p>13 <b>A. To talk about my complaint on June</b></p> <p>14 <b>25th.</b></p> <p>15 Q. Okay. Were you available to talk</p> <p>16 about something else on June 25th?</p> <p>17 <b>A. At the time that I sent this letter,</b></p> <p>18 <b>I was not.</b></p> <p>19 Q. Okay. So at some point after June --</p> <p>20 I'm sorry, May 24th, you became available to speak</p> <p>21 on June 25th?</p> <p>22 <b>A. Here's what happened. I never got a</b></p> <p>23 <b>cancellation. I received no further communication</b></p> <p>24 <b>from Saul Ewing, yourself, or Mr. Eidelman.</b></p> <p>25 <b>Actually, I don't think we even had contact</b></p>	<p style="text-align: right;">40</p> <p>1 marked as Kelly 10. You can take a moment to look</p> <p>2 at this document. Do you recognize this letter?</p> <p>3 <b>A. Um-hmm, I do.</b></p> <p>4 Q. Okay. So this is a letter dated May</p> <p>5 25th sent to you from Gary Eidelman. I'm going to</p> <p>6 read the letter. It says: Dear Ms. Kelly, I am</p> <p>7 in receipt of your overnight letter dated May</p> <p>8 24th, 2018. The deposition subpoena that you were</p> <p>9 served with is in connection with the lawsuit</p> <p>10 filed by Steve Barger against First Data</p> <p>11 Corporation that is pending in New York. Please</p> <p>12 refer to the caption on page 1 of the subpoena.</p> <p>13 It is not related to your EEOC charge against</p> <p>14 First Data. I understand that June 25th, 2018 is</p> <p>15 not convenient for you. Please let me know which</p> <p>16 of the following dates work for your deposition:</p> <p>17 June 27, 28, July 3, 5, 6, 13, 16, 17, 19, 23, 24,</p> <p>18 25, 26. So as not to burden you financially,</p> <p>19 First Data will pay the cost of childcare for you</p> <p>20 to attend the deposition. If you have any other</p> <p>21 questions about your deposition, you should speak</p> <p>22 with your lawyer, Shawn Shearer.</p> <p>23 Did you ever respond to Mr. Eidelman</p> <p>24 or anyone at Saul Ewing about those alternative</p> <p>25 dates that were proposed?</p>

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11 (41 to 44)

41	<p>1 <b>A. I believe I did respond to this.</b></p> <p>2 Q. Okay. Did you respond and pick a new</p> <p>3 date?</p> <p>4 <b>A. I did not because I was waiting on</b></p> <p>5 <b>some answers to my questions, questions in the</b></p> <p>6 <b>previous letter, and then I believe -- and it's</b></p> <p>7 <b>kind of a blur, but I believe that there were</b></p> <p>8 <b>other questions I was waiting to be answered.</b></p> <p>9 Q. Like what sort of questions?</p> <p>10 <b>A. Who was going to -- who represents me</b></p> <p>11 <b>and what am I supposed to be doing? I know at</b></p> <p>12 <b>first I was confused over which case this was for</b></p> <p>13 <b>because I wasn't --</b></p> <p>14 Q. Right. So in this letter from</p> <p>15 Mr. Eidelman, it says: The deposition subpoena is</p> <p>16 served in connection with the lawsuit filed by</p> <p>17 Steve Barger.</p> <p>18 <b>A. Um-hmm.</b></p> <p>19 Q. It is not related to your EEOC charge</p> <p>20 against First Data. So did that not clarify</p> <p>21 what --</p> <p>22 <b>A. Well, then, he says to speak with my</b></p> <p>23 <b>lawyer, Shawn Shearer, who's not my attorney for</b></p> <p>24 <b>this case. So why would I talk to him?</b></p> <p>25 Q. Okay. But you received this letter,</p>	43
42	<p>1 but you did not respond and pick an alternative</p> <p>2 date that was provided in this letter?</p> <p>3 <b>A. Not at that time. Not at this time.</b></p> <p>4 Q. Did you ever provide an alternative</p> <p>5 date?</p> <p>6 <b>A. I don't know.</b></p> <p>7 Q. Okay. So also in this letter, it</p> <p>8 says: So as not to burden you financially, First</p> <p>9 Data will pay the cost of childcare for you to</p> <p>10 attend the deposition.</p> <p>11 <b>A. I did misunderstand that.</b></p> <p>12 Q. What did you understand that to mean?</p> <p>13 <b>A. I thought childcare was going to be</b></p> <p>14 <b>provided at the deposition.</b></p> <p>15 Q. Okay. Why did you believe that?</p> <p>16 <b>A. I don't know, quite honestly. I</b></p> <p>17 <b>just -- (shaking head).</b></p> <p>18 Q. Okay. But you will agree that the</p> <p>19 letter does not say that childcare will be</p> <p>20 provided?</p> <p>21 <b>A. Right. I mean, it says, yeah,</b></p> <p>22 <b>they'll pay the cost.</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. I did misinterpret that.</b></p> <p>25 Q. Let me take that. Thank you.</p>	44
	<p>1 (Thereupon, Kelly Exhibit 11, a</p> <p>2 1-page letter dated 5/29/18 to Gary Eidelman from</p> <p>3 Julie Kelly, was marked for purposes of</p> <p>4 identification.)</p> <p>5 BY MS. COOPER:</p> <p>6 Q. So you receive that letter from</p> <p>7 Mr. Eidelman. What did you do after receiving</p> <p>8 that letter?</p> <p>9 <b>A. Oh, goodness, I honestly can't tell</b></p> <p>10 <b>you exactly what I did after I received that</b></p> <p>11 <b>letter.</b></p> <p>12 Q. Did you show the letter to anybody?</p> <p>13 <b>A. Probably my husband.</b></p> <p>14 Q. Okay. Did you show the letter to</p> <p>15 Mr. Shearer?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Okay. Did you talk to Mr. Shearer</p> <p>18 about that letter?</p> <p>19 <b>A. No. I had a lot going on. It was</b></p> <p>20 <b>probably late at night when I finally opened the</b></p> <p>21 <b>mail. I don't know.</b></p> <p>22 Q. Okay. I'm going to show you Exhibit</p> <p>23 11.</p> <p>24 <b>A. Oh, I opened it in the morning.</b></p> <p>25 Q. Okay. So what is this document that</p>	

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12 (45 to 48)

45	<p>1 Q. Did you discuss this letter with</p> <p>2 anybody?</p> <p>3 <b>A. Probably the same, my husband. I'm</b></p> <p>4 <b>sure he had some edits for me as well.</b></p> <p>5 Q. Anybody else besides your husband?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. Have you -- you said that you</p> <p>8 were planning on installing video cameras or</p> <p>9 surveillance cameras?</p> <p>10 <b>A. Um-hmm.</b></p> <p>11 Q. Have you --</p> <p>12 <b>A. We have them, um-hmm.</b></p> <p>13 Q. When were those installed?</p> <p>14 <b>A. Oh, gosh, I can't remember.</b></p> <p>15 Q. But was it before or after --</p> <p>16 <b>A. It was after.</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. Yeah. You just can't see -- usually,</b></p> <p>19 <b>we don't get this type of thing happening in our</b></p> <p>20 <b>neighborhood, quite honestly.</b></p> <p>21 Q. What type of thing?</p> <p>22 <b>A. Random people coming up to your door,</b></p> <p>23 <b>banging on your door serving papers.</b></p> <p>24 Q. So you -- the process server banged</p> <p>25 on your door?</p>	47	<p>1 Q. Did you have any more conversation</p> <p>2 with FedEx?</p> <p>3 <b>A. I had one and they didn't find</b></p> <p>4 <b>anything, so I guess the case was closed.</b></p> <p>5 Q. So how many conversations in total</p> <p>6 did you have with FedEx?</p> <p>7 <b>A. Two.</b></p> <p>8 Q. Two, okay. When was the first</p> <p>9 conversation?</p> <p>10 <b>A. It was the evening that I received</b></p> <p>11 <b>the subpoena.</b></p> <p>12 Q. Okay. And the second?</p> <p>13 <b>A. I think it was the next day, a couple</b></p> <p>14 <b>of days later. I honestly can't remember. I may</b></p> <p>15 <b>have written it in a notebook. I don't know.</b></p> <p>16 Q. Okay. So you also say in this</p> <p>17 letter: Shawn Shearer, Esq., is not my lawyer on</p> <p>18 the Steven Barger versus First Data case.</p> <p>19 <b>A. Right. Mr. -- I'm sorry.</b></p> <p>20 Q. That's okay.</p> <p>21 <b>A. Mr. Eidelman had said in his previous</b></p> <p>22 <b>letter to speak with Mr. Shearer about -- if I had</b></p> <p>23 <b>any questions, and I just wanted it to be clear</b></p> <p>24 <b>that Mr. Shearer was not my lawyer for this case.</b></p> <p>25 Q. Okay, understood. Okay. I can take</p>
46	<p>1 <b>A. Well, knocked on the door. I don't</b></p> <p>2 <b>know. I didn't answer the door.</b></p> <p>3 Q. So you don't know if he rang the door</p> <p>4 bell or --</p> <p>5 <b>A. We don't get someone impersonating or</b></p> <p>6 <b>looking like a FedEx person coming to our door, so</b></p> <p>7 <b>we want extra protection going forward.</b></p> <p>8 Q. Again, why do you think he looked</p> <p>9 like a FedEx employee?</p> <p>10 <b>A. What he was wearing --</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. -- is very similar to what all of the</b></p> <p>13 <b>FedEx people wear in our neighborhood, and he had</b></p> <p>14 <b>a FedEx package in his hand.</b></p> <p>15 Q. Okay. But you did not see the</p> <p>16 vehicle he drove?</p> <p>17 <b>A. No. You cannot see vehicles in my</b></p> <p>18 <b>driveway from my front door.</b></p> <p>19 Q. Okay. And he wasn't wearing any item</p> <p>20 of clothing that said FedEx?</p> <p>21 <b>A. I don't know.</b></p> <p>22 Q. Okay. You say in this letter that</p> <p>23 you were going to work with FedEx to figure out</p> <p>24 who the impersonator was?</p> <p>25 <b>A. Um-hmm.</b></p>	48	<p>1 that back. What is your telephone number?</p> <p>2 <b>A. 513-806-4893.</b></p> <p>3 Q. Okay. Did you ever receive a</p> <p>4 voicemail message from either myself or anybody</p> <p>5 from my firm?</p> <p>6 <b>A. I received one just recently, it was</b></p> <p>7 <b>a couple of weeks ago when we had a conference</b></p> <p>8 <b>call with Judge Bowman. I was actually on the</b></p> <p>9 <b>line and I think you left me a message.</b></p> <p>10 Q. Right, yes. So that was -- I believe</p> <p>11 the judge wanted us to call back in?</p> <p>12 <b>A. Yeah. I was already on the line,</b></p> <p>13 <b>yeah. So yes, I got that message a couple of days</b></p> <p>14 <b>later.</b></p> <p>15 Q. Okay. Did you receive any other</p> <p>16 voicemail messages from either myself or any</p> <p>17 person at my firm?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Okay. Have you checked your call</p> <p>20 history to see if there were any calls or any</p> <p>21 messages from --</p> <p>22 <b>A. I don't normally do that.</b></p> <p>23 Q. Okay. So you don't recall receiving</p> <p>24 a missed call on June 21st or a voicemail message</p> <p>25 from me?</p>

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13 (49 to 52)

49	<p>1 <b>A. Oh, no.</b></p> <p>2 Q. Okay.</p> <p>3 <b>A. I think I just listened to your other</b></p> <p>4 <b>one the other day, that's why it's in the top of</b></p> <p>5 <b>my mind.</b></p> <p>6 Q. All right. Do you normally save</p> <p>7 voicemail messages?</p> <p>8 <b>A. No. I may have a couple from when my</b></p> <p>9 <b>children were born or something like that, but no.</b></p> <p>10 Q. So is it a practice that you go</p> <p>11 through and delete your voicemail messages?</p> <p>12 <b>A. Honestly, you know what happens,</b></p> <p>13 <b>someone will call me, my mom or someone will say</b></p> <p>14 <b>your voicemail is full, go delete some, so I'll</b></p> <p>15 <b>just go through and delete some.</b></p> <p>16 Q. Have you gone back and looked to see</p> <p>17 if there are any voicemail messages from June</p> <p>18 21st?</p> <p>19 <b>A. I haven't, no.</b></p> <p>20 Q. Okay. All right. So you sent this</p> <p>21 letter. Did you give it back to me yet?</p> <p>22 <b>A. Yeah.</b></p> <p>23 Q. All right. So you sent the last</p> <p>24 letter that we just looked at on May 29th?</p> <p>25 <b>A. Um-hmm.</b></p>	51
50	<p>1 Q. Did you have any contact with anyone</p> <p>2 at my firm or myself after this letter before June</p> <p>3 25th, which is the date that the deposition was</p> <p>4 originally scheduled for?</p> <p>5 <b>A. I don't know off the top of my head</b></p> <p>6 <b>unless I looked at a calendar or something.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. I don't believe so, but --</b></p> <p>9 Q. Okay. So you never at any time told</p> <p>10 either myself, Mr. Eidelman, or anyone in my law</p> <p>11 firm that you were now available on June 25th?</p> <p>12 <b>A. (Shaking head.)</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. No.</b></p> <p>15 Q. You've said a couple of times about a</p> <p>16 cancellation, you've never received a confirmed</p> <p>17 cancellation?</p> <p>18 <b>A. Um-hmm.</b></p> <p>19 Q. What do you mean by a confirmed</p> <p>20 cancellation?</p> <p>21 <b>A. Just it doesn't even have to be</b></p> <p>22 <b>confirmed, but someone cancelling a meeting or</b></p> <p>23 <b>rescheduling a meeting, I never received a</b></p> <p>24 <b>notification that something was canceled.</b></p> <p>25 Q. Okay. Although, when we looked at</p>	52
	<p>1 Kelly 10, the May 25th letter from Gary Eidelman,</p> <p>2 he said: I understand June 25th is not convenient</p> <p>3 for you. Please let me know which of the</p> <p>4 following dates work.</p> <p>5 <b>A. Um-hmm.</b></p> <p>6 Q. So how is that not confirming that</p> <p>7 you're not available on June 25th and here are</p> <p>8 other dates, let me know what works for you?</p> <p>9 <b>A. He didn't say it's canceled.</b></p> <p>10 Q. So you wanted someone to say in</p> <p>11 writing that the deposition on June 25th is</p> <p>12 canceled?</p> <p>13 <b>A. Or rescheduled.</b></p> <p>14 Q. Okay. Well, if you say that you're</p> <p>15 not available and we say, okay, here are other</p> <p>16 dates, and then you never chose any of other dates</p> <p>17 that were provided --</p> <p>18 <b>A. So I assumed the original date is</b></p> <p>19 <b>still valid.</b></p> <p>20 Q. Based on what?</p> <p>21 <b>A. Based on the fact that there was</b></p> <p>22 <b>never another date agreed upon by anyone or issued</b></p> <p>23 <b>by a new subpoena. I don't know how it works.</b></p> <p>24 <b>I'm not an attorney.</b></p> <p>25 Q. Okay. So if you don't know how it</p>	

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14 (53 to 56)

53	<p>1 Q. Okay. Did you talk to anybody about</p> <p>2 that decision?</p> <p>3 <b>A. My husband and my oldest daughter.</b></p> <p>4 Q. Okay. What did you discuss?</p> <p>5 <b>A. Changing our plans.</b></p> <p>6 Q. Okay.</p> <p>7 <b>A. Because I was commanded by the court</b></p> <p>8 <b>to be there, I received no notification, no</b></p> <p>9 <b>further answers to my questions, so I assumed that</b></p> <p>10 <b>the 25th was still on; and I also knew if I didn't</b></p> <p>11 <b>show up for the 25th, I could be held in contempt</b></p> <p>12 <b>because that subpoena was still valid.</b></p> <p>13 Q. Okay. So did you talk to Mr. Shearer</p> <p>14 about appearing on June 25th?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Okay. Did you talk to anyone from</p> <p>17 his office about appearing?</p> <p>18 <b>A. No. I spoke with my husband and my</b></p> <p>19 <b>oldest daughter --</b></p> <p>20 Q. Okay.</p> <p>21 <b>A. -- so we could change our plans.</b></p> <p>22 Q. Okay. Did you think about reaching</p> <p>23 out to anyone at my law firm to --</p> <p>24 <b>A. I hadn't heard from anyone from your</b></p> <p>25 <b>law firm for weeks, so quite honestly, I thought</b></p>	55	<p>1 Q. (Indicating.)</p> <p>2 <b>A. Sorry, I just want this to go on the</b></p> <p>3 <b>record too. This was when I was confused as to</b></p> <p>4 <b>what this subpoena was about because I had just</b></p> <p>5 <b>filed my own case, and that's clearly in here.</b></p> <p>6 <b>And at the bottom, I say: I'm sorry I cannot come</b></p> <p>7 <b>to talk about my complaint on June 25th. So</b></p> <p>8 <b>clearly, at the time I had questions and I was</b></p> <p>9 <b>confused as to what the subpoena was originally</b></p> <p>10 <b>about. So absolutely, I cannot be there was -- I</b></p> <p>11 <b>was assuming at the time that it was to talk about</b></p> <p>12 <b>my complaint.</b></p> <p>13 Q. Okay. So you were available on June</p> <p>14 25th, but just not to talk about your complaint;</p> <p>15 is that what you're saying?</p> <p>16 <b>A. It could have been possible.</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. This was a very stressful time.</b></p> <p>19 Q. All right. Okay. So let's talk</p> <p>20 about June 25th. June 25th, 2018 was a Monday.</p> <p>21 How did you start out that morning?</p> <p>22 <b>A. Well, I probably got up at 6:00, got</b></p> <p>23 <b>my children up, got my children ready. They knew</b></p> <p>24 <b>we had somewhere to go that day. I probably said</b></p> <p>25 <b>it was an adventure, we were doing something fun.</b></p>
54	<p>1 <b>it was a trap.</b></p> <p>2 Q. What do you mean by a trap?</p> <p>3 <b>A. I thought if I go, they're going to</b></p> <p>4 <b>be there, great; and then if I don't go because we</b></p> <p>5 <b>never set a new date, I'm held in contempt. I was</b></p> <p>6 <b>very worried.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. It's very -- you know, I abide by the</b></p> <p>9 <b>law.</b></p> <p>10 Q. Okay.</p> <p>11 <b>A. When you get a subpoena, an average</b></p> <p>12 <b>person, it's not an easy thing.</b></p> <p>13 Q. Right. But, yet, you get the</p> <p>14 subpoena and then you put in writing that you are</p> <p>15 absolutely unavailable on June 25th?</p> <p>16 <b>A. Okay.</b></p> <p>17 MR. SHEARER: Objection. That's not</p> <p>18 what the testimony was.</p> <p>19 MS. COOPER: Okay.</p> <p>20 BY MS. COOPER:</p> <p>21 Q. So I will read the letter. In your</p> <p>22 May 24th, 2018 letter, you say, quote: No matter</p> <p>23 what, I am not available at all on June 25th.</p> <p>24 <b>A. Correct. Now, can I see that a</b></p> <p>25 <b>second?</b></p>	56	<p>1 <b>You know, we got dressed. We had breakfast, and</b></p> <p>2 <b>we got packed in the car, and we headed to the</b></p> <p>3 <b>address on the subpoena.</b></p> <p>4 Q. Okay. Again, why did you decide to</p> <p>5 bring your children with you?</p> <p>6 <b>A. I was under the impression that</b></p> <p>7 <b>childcare would be provided at the deposition.</b></p> <p>8 Q. Okay.</p> <p>9 <b>A. I attend mom groups and I attend a</b></p> <p>10 <b>women's group at my church, and, you know, I had a</b></p> <p>11 <b>lot going on, I assumed it was the same.</b></p> <p>12 Q. What do you mean, what was the same?</p> <p>13 <b>A. Childcare was provided.</b></p> <p>14 Q. Okay. So you're telling me that you</p> <p>15 get this subpoena, which you say is, you know, a</p> <p>16 legal document that's issued by the court, you're</p> <p>17 going to abide by it, and the letter from</p> <p>18 Mr. Eidelman says we will reimburse you for</p> <p>19 childcare costs, but, yet, you're confused --</p> <p>20 <b>A. I wasn't confused. I just</b></p> <p>21 <b>interpreted it differently.</b></p> <p>22 Q. Okay. So where Mr. Eidelman says,</p> <p>23 quote: So as not to burden you financially, First</p> <p>24 Data will pay the cost of childcare for you to</p> <p>25 attend the deposition, you interpreted that to</p>

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15 (57 to 60)

57	<p>1 mean bring your children to the deposition, we</p> <p>2 will provide a baby-sitter?</p> <p>3 <b>A. I did.</b></p> <p>4 Q. Okay. So June 25th, 2018, you appear</p> <p>5 at the location in the subpoena for the</p> <p>6 deposition. How many children did you have with</p> <p>7 you?</p> <p>8 <b>A. Three.</b></p> <p>9 Q. Three. Okay. What happened when you</p> <p>10 got to the location?</p> <p>11 <b>A. We went up, we went inside.</b></p> <p>12 <b>Actually, you have to ring a buzzer to get inside.</b></p> <p>13 <b>And I asked for Mr. Eidelman for the 10:00 -- I</b></p> <p>14 <b>believe it was 10:00, deposition.</b></p> <p>15 Q. And then what?</p> <p>16 <b>A. And the person I spoke with,</b></p> <p>17 <b>Mr. Clement, I believe, he gave me his business</b></p> <p>18 <b>card, didn't know what I was talking about, didn't</b></p> <p>19 <b>know Mr. Eidelman, and was going to check with his</b></p> <p>20 <b>colleague to see what was going on and just told</b></p> <p>21 <b>us to have a seat.</b></p> <p>22 Q. Okay. But what happened after he</p> <p>23 said he was going to --</p> <p>24 <b>A. He went and checked, and his</b></p> <p>25 <b>colleague came out, too, and they said that there</b></p>
58	<p>1 <b>was nothing scheduled.</b></p> <p>2 Q. Okay. Did you call anybody while you</p> <p>3 were at the office location?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Okay. Did you call anyone from</p> <p>6 Mr. Eidelman's office or my office?</p> <p>7 <b>A. I wasn't at your office.</b></p> <p>8 Q. No. Did you call anyone at our</p> <p>9 office about --</p> <p>10 <b>A. No. I didn't have -- I wrote a</b></p> <p>11 <b>letter I dropped in the mail later.</b></p> <p>12 Q. Okay. So where did you -- actually,</p> <p>13 let's go ahead.</p> <p>14 (Thereupon, Kelly Exhibit 12, a</p> <p>15 1-page, handwritten letter dated 6/25/18 to Gary</p> <p>16 from Julie Kelly, was marked for purposes of</p> <p>17 identification.)</p> <p>18 THE WITNESS: I probably called my</p> <p>19 husband, quite honestly.</p> <p>20 BY MS. COOPER:</p> <p>21 Q. Okay. I'll show you this. Do you</p> <p>22 recognize this document?</p> <p>23 <b>A. Yeah.</b></p> <p>24 Q. Did you draft this document?</p> <p>25 <b>A. I did.</b></p>
59	<p>1 Q. Is that your signature?</p> <p>2 <b>A. Yeah.</b></p> <p>3 Q. Okay. Where did you draft this</p> <p>4 document?</p> <p>5 <b>A. In my car.</b></p> <p>6 Q. Okay. So in your car, and then did</p> <p>7 you show anybody this document?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Okay. So it begins: Gary, I never</p> <p>10 received a confirmed cancellation. Again, what</p> <p>11 does that mean?</p> <p>12 <b>A. That means no one told me that the</b></p> <p>13 <b>deposition was not going to take place on June</b></p> <p>14 <b>25th, 2018 --</b></p> <p>15 Q. Okay.</p> <p>16 <b>A. -- by letter, by phone, by e-mail, by</b></p> <p>17 <b>text, no one told me.</b></p> <p>18 Q. Okay. But you said that you had not</p> <p>19 checked to see if there are any voicemail messages</p> <p>20 from me?</p> <p>21 <b>A. I wouldn't know your number. I</b></p> <p>22 <b>wouldn't know --</b></p> <p>23 Q. Okay. But if you're saying you never</p> <p>24 received a call cancelling the deposition, if you</p> <p>25 don't --</p>
60	<p>1 <b>A. No.</b></p> <p>2 Q. -- know my number, how would you --</p> <p>3 you didn't check any voicemail, I mean --</p> <p>4 <b>A. Well, would your number come up Saul</b></p> <p>5 <b>Ewing? I don't know. If it would, I probably</b></p> <p>6 <b>would have listened to it, if you called --</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. -- but I didn't.</b></p> <p>9 Q. You didn't check?</p> <p>10 <b>A. I didn't see anything, no.</b></p> <p>11 Q. Okay. So in the second paragraph,</p> <p>12 it's kind of hard to see, it says: I have not</p> <p>13 heard back from you after my last letter, and if</p> <p>14 we need to set a rescheduled date, please use USPS</p> <p>15 to communicate next steps. As you know, I do not</p> <p>16 have any legal representation for this case.</p> <p>17 <b>A. Um-hmm.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. So you say if we need to set up a</p> <p>21 rescheduled date, please use USPS. How come you</p> <p>22 never responded to any of the other reschedule</p> <p>23 date suggestions that were provided in the earlier</p> <p>24 letter?</p> <p>25 <b>A. Like I said, I was waiting on some</b></p>

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16 (61 to 64)

61	<p><b>1 answers to those questions, and then, you know, I</b></p> <p><b>2 received no further communication.</b></p> <p>3 Q. Okay. All right.</p> <p><b>4 A. So --</b></p> <p>5 (Thereupon, Kelly Exhibit 13, a</p> <p>6 1-page letter dated 6/27/18 to Gary Eidelman from</p> <p>7 Julie Kelly, was marked for purposes of</p> <p>8 identification.)</p> <p>9 MR. SHEARER: Was that letter that we</p> <p>10 just did No. 12; is that what we marked that?</p> <p>11 MS. COOPER: Yes.</p> <p>12 BY MS. COOPER:</p> <p>13 Q. Okay. Do you have any photos or</p> <p>14 videos from your trip to the law firm on June</p> <p>15 25th?</p> <p><b>16 A. Yes.</b></p> <p>17 Q. Did you bring them with you today?</p> <p><b>18 A. I brought the photos.</b></p> <p>19 Q. All right. So we'll go through --</p> <p>20 actually, do you have those now?</p> <p><b>21 A. Do you just want --</b></p> <p>22 Q. Yeah, I'll take the stack. Thank</p> <p>23 you. Do you have copies of this or can I keep</p> <p>24 this?</p> <p><b>25 A. I didn't make any other copies. I</b></p>
62	<p><b>1 wasn't told to duplicate.</b></p> <p>2 Q. Right, we didn't say that.</p> <p>3 MR. SHEARER: Can we just have them</p> <p>4 go into the record?</p> <p>5 MS. COOPER: Yeah. I'm just trying</p> <p>6 to decide --</p> <p>7 MR. SHEARER: I don't have copies</p> <p>8 either.</p> <p>9 MS. COOPER: I don't know if I want</p> <p>10 to. We'll take a break in a little bit and I'll</p> <p>11 look at them, and then we'll figure out how we're</p> <p>12 going to handle that.</p> <p>13 THE WITNESS: Sorry.</p> <p>14 MS. COOPER: That's okay. Most of</p> <p>15 the time when we do depositions, we're in an</p> <p>16 office and we can easily make copies, but I'll</p> <p>17 review them and we'll figure that out on the</p> <p>18 break.</p> <p>19 BY MS. COOPER:</p> <p>20 Q. I'm going to show you Exhibit 13, and</p> <p>21 do you recognize this document?</p> <p><b>22 A. I do.</b></p> <p>23 Q. Did you draft this document?</p> <p><b>24 A. Yes.</b></p> <p>25 Q. Did you discuss this document with</p>
63	<p>1 anyone?</p> <p><b>2 A. Probably my husband.</b></p> <p>3 Q. Okay. Anybody besides your husband?</p> <p><b>4 A. No, ma'am.</b></p> <p>5 Q. Did anybody make any edits to the</p> <p>6 document?</p> <p><b>7 A. Maybe my husband. I honestly can't</b></p> <p><b>8 remember. There's been a lot of letters I've been</b></p> <p><b>9 writing.</b></p> <p>10 Q. Okay. So in the second sentence, you</p> <p>11 say: I took your subpoena very seriously, and</p> <p>12 while I told you that date was not going to work</p> <p>13 for me, went out of my way to accommodate your</p> <p>14 legal request and attend. But I believe you said</p> <p>15 multiple times that you never communicated that</p> <p>16 you were now able to attend with Mr. Eidelman or</p> <p>17 myself?</p> <p><b>18 A. Right. You guys set the date. I</b></p> <p><b>19 assumed that date stuck unless you told me</b></p> <p><b>20 otherwise.</b></p> <p>21 Q. Okay. You also say in the same</p> <p>22 paragraph: You stated that First Data would pay</p> <p>23 for childcare, which I assumed would be at the</p> <p>24 deposition. If that is incorrect, that is another</p> <p>25 reason you should have been more responsible with</p>
64	<p>1 your communication with me.</p> <p><b>2 A. Again, that's where I misinterpreted.</b></p> <p><b>3 We spoke about that earlier.</b></p> <p>4 Q. Okay. So the third paragraph,</p> <p>5 begins: On a related note, I find it interesting</p> <p>6 that some of my ex First Data peers were not</p> <p>7 subpoenaed, but, rather, asked to do a casual</p> <p>8 phone conversation or meeting. What ex First Data</p> <p>9 peers are you talking about?</p> <p><b>10 A. I spoke with one person who had a</b></p> <p><b>11 conversation with you guys.</b></p> <p>12 Q. Who was that?</p> <p><b>13 A. Nick Mantia.</b></p> <p>14 Q. When did you speak to Nick Mantia?</p> <p><b>15 A. This may have been in June. I really</b></p> <p><b>16 don't know.</b></p> <p>17 Q. Okay. Did you speak to any other --</p> <p><b>18 A. No.</b></p> <p>19 Q. When you say ex First Data peers, so</p> <p>20 would that imply that it was more than one person?</p> <p><b>21 A. He's the only one I spoke with.</b></p> <p>22 Q. Okay. What did you and Mr. Mantia</p> <p>23 discuss?</p> <p><b>24 A. He just told me he had a conversation</b></p> <p><b>25 with your law firm.</b></p>

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17 (65 to 68)

65	<p>1 Q. Okay.</p> <p>2 <b>A. I don't know who.</b></p> <p>3 Q. Okay.</p> <p>4 <b>A. No details, just --</b></p> <p>5 Q. Okay. What did you tell him about</p> <p>6 your potential deposition or did you?</p> <p>7 <b>A. I didn't talk about it.</b></p> <p>8 Q. Okay. What else did Mr. Mantia</p> <p>9 discuss with you?</p> <p>10 <b>A. Nothing related to the Barger case.</b></p> <p>11 Q. Okay. Were your communications with</p> <p>12 Mr. Mantia via telephone or e-mail, text?</p> <p>13 <b>A. Phone.</b></p> <p>14 Q. Phone, okay. Did you have any</p> <p>15 follow-up conversations with him in writing?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Okay. Did you have any other e-mail</p> <p>18 communications with any other either current or</p> <p>19 former First Data employees?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Okay. Did you have any conversations</p> <p>22 with Steve Barger about --</p> <p>23 <b>A. No.</b></p> <p>24 Q. -- the subpoena?</p> <p>25 About his case?</p>	67	<p>1 <b>A. It wouldn't have been about -- we</b></p> <p>2 <b>don't discuss the case.</b></p> <p>3 Q. So you've never had a conversation</p> <p>4 with Mr. Barger about his lawsuit?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Okay. Have you had a conversation</p> <p>7 with any First Data employee, whether current or</p> <p>8 former, about the lawsuit?</p> <p>9 <b>A. The only thing would have been with</b></p> <p>10 <b>Nick.</b></p> <p>11 Q. Okay. And what did you discuss?</p> <p>12 <b>A. He just told me he was speaking with</b></p> <p>13 <b>Rhonda Johnson. I think they have a complicated</b></p> <p>14 <b>relationship, I'm not sure, and I believe she</b></p> <p>15 <b>works at First Data still. I'm not sure. But she</b></p> <p>16 <b>had told him he was going to be getting a call and</b></p> <p>17 <b>he was going to be speaking to your law firm, and</b></p> <p>18 <b>that was the extent of it.</b></p> <p>19 Q. Okay. Did he tell you the content</p> <p>20 of --</p> <p>21 <b>A. He did not.</b></p> <p>22 Q. Okay. And you've had no other</p> <p>23 conversations about Steve Barger or his lawsuit?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Okay.</p>
66	<p>1 <b>A. No.</b></p> <p>2 Q. About the deposition?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Okay. When was the last time you</p> <p>5 spoke to Mr. Barger?</p> <p>6 <b>A. It's been awhile.</b></p> <p>7 Q. Okay. Can you give me a year; were</p> <p>8 you still working at First Data?</p> <p>9 <b>A. Maybe a couple of months ago.</b></p> <p>10 Q. Couple of months ago?</p> <p>11 <b>A. Um-hmm.</b></p> <p>12 Q. What did you discuss?</p> <p>13 <b>A. Probably just checked in with my</b></p> <p>14 <b>kids, hi, how are you doing. I check in on his</b></p> <p>15 <b>health to see how he's doing.</b></p> <p>16 Q. This was over the phone?</p> <p>17 <b>A. Um-hmm.</b></p> <p>18 Q. Okay. Have you had any e-mail</p> <p>19 communications with Mr. Barger?</p> <p>20 <b>A. Yes. They're all included.</b></p> <p>21 Q. Okay. Did you have any conversations</p> <p>22 with Mr. Barger after you had received the</p> <p>23 subpoena?</p> <p>24 <b>A. Maybe. I don't know.</b></p> <p>25 Q. Okay.</p>	68	<p>1 <b>A. Do you want that?</b></p> <p>2 Q. I can take that, yes. Thank you. So</p> <p>3 I want to ask you about a statement you made a</p> <p>4 couple of times about your representation.</p> <p>5 <b>A. Um-hmm.</b></p> <p>6 Q. You said that you did not learn about</p> <p>7 Saul Ewing or Gary Eidelman or myself until you</p> <p>8 received the subpoena in May of this year?</p> <p>9 <b>A. Correct.</b></p> <p>10 Q. Okay. You've said a couple of times</p> <p>11 that you believe that Saul Ewing is your attorney</p> <p>12 in connection with this case?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Why do you believe that?</p> <p>15 <b>A. I believe that because I received the</b></p> <p>16 <b>subpoena from you to talk about the plaintiff, so</b></p> <p>17 <b>my first gut reaction was that if I need counsel</b></p> <p>18 <b>or I have questions about the case -- because they</b></p> <p>19 <b>want me to come and talk about the plaintiff, they</b></p> <p>20 <b>are my attorneys, counsel, lawyer, whatever.</b></p> <p>21 Q. Okay. What made you form the basis</p> <p>22 that receiving the subpoena made Saul Ewing your</p> <p>23 attorney?</p> <p>24 <b>A. (Shaking head.)</b></p> <p>25 Q. Did anybody tell you that?</p>

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18 (69 to 72)

69	<p>1 <b>A. No. That's what I interpreted as of</b></p> <p>2 <b>receiving that subpoena.</b></p> <p>3 Q. So you had not had any conversations</p> <p>4 with any attorneys at Saul Ewing about</p> <p>5 representation?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. Did anyone from Saul Ewing</p> <p>8 ever tell you that they were your attorney?</p> <p>9 <b>A. That's what I assumed.</b></p> <p>10 Q. My question is: Did anybody at Saul</p> <p>11 Ewing ever tell you that they are your attorney?</p> <p>12 <b>A. I'm not sure.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. I'd have to look back through the</b></p> <p>15 <b>letters because I know in my gut I thought that</b></p> <p>16 <b>Saul Ewing was going to represent me for the</b></p> <p>17 <b>Barger case.</b></p> <p>18 Q. Why?</p> <p>19 <b>A. Because of how the subpoena was</b></p> <p>20 <b>issued to me.</b></p> <p>21 Q. So the fact that you got a subpoena</p> <p>22 makes you think that the attorney who sent the</p> <p>23 subpoena was now your attorney?</p> <p>24 <b>A. That's how I interpreted it. I</b></p> <p>25 <b>didn't go to years of school for law, so that was</b></p>	71	<p>1 Q. Well, actually --</p> <p>2 <b>A. I saw an excerpt of it.</b></p> <p>3 Q. Right. Actually, you -- let me -- so</p> <p>4 the Rule 26(a) initial disclosures that you just</p> <p>5 mentioned, when was the first time that you saw</p> <p>6 the full document?</p> <p>7 <b>A. Last week.</b></p> <p>8 Q. Last week, you had never seen the</p> <p>9 full document prior to that?</p> <p>10 <b>A. No.</b></p> <p>11 Q. You said you saw an excerpt?</p> <p>12 <b>A. Um-hmm.</b></p> <p>13 Q. What was that excerpt?</p> <p>14 <b>A. That excerpt was my name and it was</b></p> <p>15 <b>in one of my filings. It was Mr. Shearer's</b></p> <p>16 <b>declaration.</b></p> <p>17 Q. Okay. So prior to last week, you had</p> <p>18 never seen a full of the initial disclosures?</p> <p>19 <b>A. Correct.</b></p> <p>20 Q. Okay.</p> <p>21 (Thereupon, Kelly Exhibit 14, a</p> <p>22 multi-page Motion for Sanctions, was marked for</p> <p>23 purposes of identification.)</p> <p>24 (Thereupon, Kelly Exhibit 15, a</p> <p>25 2-page Defendants' Initial Disclosures, was marked</p>
70	<p>1 <b>my first gut reaction.</b></p> <p>2 Q. Did you ever ask anybody at Saul</p> <p>3 Ewing whether they were your attorney?</p> <p>4 <b>A. I did, multiple times.</b></p> <p>5 Q. What answer did you receive?</p> <p>6 <b>A. I received a smart aleck response</b></p> <p>7 <b>from Mr. Eidelman: How did you ever get that</b></p> <p>8 <b>idea? I think you mentioned something in an</b></p> <p>9 <b>e-mail, and then I know it's been in a couple of</b></p> <p>10 <b>the papers that have been filed.</b></p> <p>11 Q. Okay. So you've been told no, that</p> <p>12 Saul Ewing is not your attorney?</p> <p>13 <b>A. Um-hmm.</b></p> <p>14 Q. Okay. And, yet, you've raised that</p> <p>15 multiple times about --</p> <p>16 <b>A. Right, because then later I found out</b></p> <p>17 <b>there was a list that my name was on where I was a</b></p> <p>18 <b>witness and I could only be spoken to about the</b></p> <p>19 <b>case through you, which made me again feel that</b></p> <p>20 <b>you were my counsel on the Barger case.</b></p> <p>21 Q. What is that list that you received?</p> <p>22 <b>A. It is called a 26(a), and you</b></p> <p>23 <b>actually sent me the full thing last week.</b></p> <p>24 Q. Okay.</p> <p>25 <b>A. I had never seen that before.</b></p>	72	<p>1 for purposes of identification.)</p> <p>2 BY MS. COOPER:</p> <p>3 Q. Okay. I'm going to show you what we</p> <p>4 have marked as Exhibit 14.</p> <p>5 <b>A. Um-hmm.</b></p> <p>6 Q. What is that document?</p> <p>7 <b>A. This is my motion for sanctions that</b></p> <p>8 <b>I filed on, looks like -- I always have to check</b></p> <p>9 <b>these because the clerks do not file adequately</b></p> <p>10 <b>here.</b></p> <p>11 Q. Right. What do you mean by that,</p> <p>12 don't file adequately?</p> <p>13 <b>A. It's not timely and they often mess</b></p> <p>14 <b>up the docket names.</b></p> <p>15 Q. Okay.</p> <p>16 <b>A. I have had a couple of issues.</b></p> <p>17 Q. Okay. So it looks like there is a</p> <p>18 time stamp?</p> <p>19 <b>A. Yeah, that's what I was looking at.</b></p> <p>20 <b>So it was filed on the 14th of August at 9:02.</b></p> <p>21 Q. And this is -- I'm sorry, what was</p> <p>22 that document again?</p> <p>23 <b>A. This is a motion for sanctions.</b></p> <p>24 Q. Okay. Did you draft this document?</p> <p>25 <b>A. I did.</b></p>

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19 (73 to 76)

73	<p>1 Q. Okay. Did anybody assist you in</p> <p>2 drafting this document?</p> <p>3 <b>A. My -- not drafting it, editing.</b></p> <p>4 Q. Who was that?</p> <p>5 <b>A. My mother-in-law is an editor.</b></p> <p>6 Q. What sort of editor?</p> <p>7 <b>A. She worked for a Veteran's magazine</b></p> <p>8 <b>until she retired, so just a general editor.</b></p> <p>9 Q. Okay. And so you showed her this</p> <p>10 document before filing it?</p> <p>11 <b>A. Yeah.</b></p> <p>12 Q. Did you e-mail it to her?</p> <p>13 <b>A. No.</b></p> <p>14 Q. So you printed out the document and</p> <p>15 she reviewed it?</p> <p>16 <b>A. Um-hmm.</b></p> <p>17 Q. Okay. Was she with you to make edits</p> <p>18 or how did she --</p> <p>19 <b>A. She lives with us.</b></p> <p>20 Q. All right.</p> <p>21 <b>A. Is there something specific I'm</b></p> <p>22 <b>looking for?</b></p> <p>23 Q. I'm going to -- okay. So on page 3,</p> <p>24 the first full paragraph, I have tried everything,</p> <p>25 that paragraph, you say: I have tried everything</p>	75	<p>1 Q. Okay.</p> <p>2 <b>A. I've got -- actually, I've got a copy</b></p> <p>3 <b>of my legal reference here too.</b></p> <p>4 Q. Okay. So on page 4, the second</p> <p>5 paragraph in background, it says: In November</p> <p>6 2017, unbeknownst to me and without even asking if</p> <p>7 I could afford their lawyer, First Data included</p> <p>8 me as a potential witness in the case of Barger</p> <p>9 versus First Data. First Data's disclosures say</p> <p>10 that I, Julie Kelly, may only be contacted through</p> <p>11 the undersigned counsel.</p> <p>12 <b>A. Um-hmm. That's what I told you, I</b></p> <p>13 <b>saw that excerpt.</b></p> <p>14 Q. So when did you see the excerpt?</p> <p>15 <b>A. I don't know the exact date off the</b></p> <p>16 <b>top of my head.</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. I know it's an exhibit.</b></p> <p>19 Q. All right. The next paragraph, on</p> <p>20 May 26, 2018: I filed a charge of discrimination</p> <p>21 with the OCRC against my former employer, First</p> <p>22 Data. Then, the legal harassment started. A week</p> <p>23 later, on May 23rd, a man masquerading as a FedEx</p> <p>24 employee knocked on my door, demanded to enter my</p> <p>25 home to get to the backyard where my children</p>
74	<p>1 I can think of to figure out what is going on</p> <p>2 here. First, Mr. Eidelman tells the court that he</p> <p>3 is my lawyer in the Barger versus First Data case.</p> <p>4 What court are you referring to?</p> <p>5 <b>A. The Eastern New York court. Well,</b></p> <p>6 <b>when was this filed? It's probably both Ohio and</b></p> <p>7 <b>New York.</b></p> <p>8 Q. Okay. When did Mr. Eidelman tell the</p> <p>9 Eastern District that he was your attorney?</p> <p>10 <b>A. I'm assuming it's this 26(a).</b></p> <p>11 Q. Okay. So tell me what you know about</p> <p>12 26(a) initial disclosures; how are they used in</p> <p>13 litigation?</p> <p>14 <b>A. All I know is that it's a list of</b></p> <p>15 <b>people for a court case that they can talk to.</b></p> <p>16 Q. Okay. And do they get filed with the</p> <p>17 court?</p> <p>18 <b>A. I don't know.</b></p> <p>19 Q. Okay. So you don't know if</p> <p>20 Mr. Eidelman ever told the court that he was your</p> <p>21 attorney?</p> <p>22 <b>A. I'm assuming -- it has a number to</b></p> <p>23 <b>it. I'm assuming it gets filed.</b></p> <p>24 Q. Okay. Have you read Rule 26(a)?</p> <p>25 <b>A. I probably did.</b></p>	76	<p>1 were, and then pulled a subpoena out from behind</p> <p>2 the decoy FedEx box he was holding.</p> <p>3 <b>A. Um-hmm.</b></p> <p>4 Q. Okay. So I want to talk about what</p> <p>5 you wrote here as opposed to your testimony</p> <p>6 earlier in this deposition. So earlier you</p> <p>7 testified that your husband answered the door?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And you were not sure whether he</p> <p>10 knocked or rang the door bell?</p> <p>11 <b>A. My husband actually wrote a statement</b></p> <p>12 <b>that states that he answered the door and this is</b></p> <p>13 <b>who was there.</b></p> <p>14 Q. Okay.</p> <p>15 <b>A. And how -- that's where this comes</b></p> <p>16 <b>into play, he wanted to actually go to the</b></p> <p>17 <b>backyard, he said that to my husband.</b></p> <p>18 Q. Okay. Did you hear him say that to</p> <p>19 your husband?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Okay. So your husband told you that</p> <p>22 the process server asked to go to the backyard?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Okay. And what did your husband say?</p> <p>25 <b>A. He said no.</b></p>

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20 (77 to 80)

77	<p>1 Q. Did you call the police?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Why not?</p> <p>4 <b>A. I don't know at the time.</b></p> <p>5 Q. Okay. The statement that your</p> <p>6 husband wrote, is that in this pack?</p> <p>7 <b>A. I don't know. I think I filed it.</b></p> <p>8 <b>It may have gone to the OCRC.</b></p> <p>9 Q. Okay. All right.</p> <p>10 <b>A. More than likely.</b></p> <p>11 Q. That's something that I'll have to</p> <p>12 make a note that we will have to --</p> <p>13 <b>A. I think it's -- I think it's an</b></p> <p>14 <b>exhibit, quite honestly.</b></p> <p>15 Q. Okay.</p> <p>16 <b>A. If not, I can get it.</b></p> <p>17 Q. Okay. So if you can turn to page 5.</p> <p>18 <b>A. Um-hmm.</b></p> <p>19 Q. The second paragraph, beginning</p> <p>20 Mr. Eidelman. Mr. Eidelman was told via e-mail</p> <p>21 and US mail that I had gone to the law firm for my</p> <p>22 deposition on June 25th. For some reason that I</p> <p>23 still do not understand, Mr. Eidelman decided to</p> <p>24 discuss the private e-mail he had received and</p> <p>25 went, quote, on the record, end quote, with a</p>	79	<p>1 <b>A. Probably.</b></p> <p>2 Q. Which?</p> <p>3 <b>A. Probably telephone.</b></p> <p>4 Q. Telephone?</p> <p>5 <b>A. Yeah.</b></p> <p>6 Q. Okay. All right. So if you turn to</p> <p>7 page 8, you have a list of bullet points. You</p> <p>8 say -- the first bullet point is -- can you just</p> <p>9 read that for the record?</p> <p>10 <b>A. Yes. My name was not removed from</b></p> <p>11 <b>First Data's 26(a) disclosure in the Barger case,</b></p> <p>12 <b>and First Data's disclosure still says that I can</b></p> <p>13 <b>only be contacted through Saul Ewing. Are they</b></p> <p>14 <b>still my lawyer?</b></p> <p>15 Q. Okay. So how do you know that the</p> <p>16 26(a) initial disclosures had not been updated or</p> <p>17 that your name had not been removed?</p> <p>18 <b>A. I got an excerpt as an exhibit</b></p> <p>19 <b>through Mr. Shearer's declaration.</b></p> <p>20 Q. An expert?</p> <p>21 <b>A. An excerpt.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. So had it been updated, I didn't know</b></p> <p>24 <b>that at the time I wrote this.</b></p> <p>25 Q. Okay. So I want to show you what</p>
78	<p>1 bunch of people I used to work with at First Data</p> <p>2 sitting right there, including one in-house lawyer</p> <p>3 named Jill Poole, who was involved in my</p> <p>4 discrimination claim against First Data in a</p> <p>5 different deposition in Atlanta, a deposition that</p> <p>6 had absolutely nothing to do with me and slandered</p> <p>7 me, accusing me of lying about attending my</p> <p>8 deposition.</p> <p>9 Where did you learn this information</p> <p>10 from?</p> <p>11 <b>A. I learned this from Mr. Shearer.</b></p> <p>12 Q. Okay. What did he tell you?</p> <p>13 <b>A. What went on, my name was slandered.</b></p> <p>14 Q. Okay.</p> <p>15 <b>A. I was made out to be a liar.</b></p> <p>16 Q. Okay. And so when did you have that</p> <p>17 conversation?</p> <p>18 <b>A. Before the 14th when I filed this.</b></p> <p>19 Q. Okay.</p> <p>20 <b>A. I don't know the exact date or time.</b></p> <p>21 Q. Do you know whose deposition was</p> <p>22 taking place?</p> <p>23 <b>A. I don't.</b></p> <p>24 Q. Okay. Was this conversation via</p> <p>25 telephone or e-mail?</p>	80	<p>1 we've marked as Exhibit 15. Thank you. Exhibit</p> <p>2 15 is -- what is Exhibit 15?</p> <p>3 <b>A. This looks like an excerpt of 26(a).</b></p> <p>4 Q. What do you mean, an excerpt?</p> <p>5 <b>A. It's not complete.</b></p> <p>6 Q. What's missing from it?</p> <p>7 <b>A. It goes from page 0 to 5 to 8.</b></p> <p>8 Q. Okay. And this document, what did</p> <p>9 you do with this?</p> <p>10 <b>A. I believe this is part of the exhibit</b></p> <p>11 <b>for what I filed on the 14th.</b></p> <p>12 Q. Okay. And so this is the excerpt</p> <p>13 that you were referring to that Mr. Shearer</p> <p>14 provided you?</p> <p>15 <b>A. You're providing this document, so</b></p> <p>16 <b>I'm --</b></p> <p>17 Q. Right. But this document, if you</p> <p>18 look at the top, we see the case number, doc</p> <p>19 number 7 dash 1 filed 8/14/18. The document we</p> <p>20 just looked at, Exhibit 14, was document numbered</p> <p>21 7. So this being 7 dash 1 was an exhibit or a</p> <p>22 part of 7, your motion --</p> <p>23 <b>A. Okay.</b></p> <p>24 Q. -- for sanctions.</p> <p>25 <b>A. It's just not --</b></p>

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21 (81 to 84)

81	<p>1 Q. It's just not connected.</p> <p>2 <b>A. Yeah, that's fine.</b></p> <p>3 Q. Right. So is this the excerpt that</p> <p>4 you are referring to?</p> <p>5 <b>A. Yeah, if this is exactly as I filed</b></p> <p>6 <b>and pulled. I don't know. You're giving me this,</b></p> <p>7 <b>so I don't know if it's been changed.</b></p> <p>8 Q. Yes. The Exhibit A page I took off,</p> <p>9 but if we see at the top, it's part of --</p> <p>10 <b>A. Right. I never, I never saw the</b></p> <p>11 <b>complete 26(a) until you sent it to me last week.</b></p> <p>12 Q. Okay. But you received a partial</p> <p>13 from Mr. Shearer?</p> <p>14 <b>A. Right.</b></p> <p>15 Q. And this is the document that</p> <p>16 Mr. Shearer sent to you?</p> <p>17 <b>A. As long as you're saying you pulled</b></p> <p>18 <b>it from what I filed.</b></p> <p>19 Q. Okay. When did you receive this</p> <p>20 excerpt?</p> <p>21 <b>A. Obviously, before 8/14. I don't --</b></p> <p>22 <b>probably 8/13. I don't know.</b></p> <p>23 Q. Okay. So if this is the document</p> <p>24 that made you believe that Saul Ewing was your</p> <p>25 attorney --</p>	83	<p>1 counsel. They are never filed with the court.</p> <p>2 They might have been filed in the last month or so</p> <p>3 with the motion practice we've been engaged in.</p> <p>4 But it is about scheduling depositions or</p> <p>5 scheduling contacts with witnesses. So I want to</p> <p>6 ask -- oh, it's not on here actually.</p> <p>7 <b>A. Can I ask one more question?</b></p> <p>8 Q. Um-hmm.</p> <p>9 <b>A. So when you sent me the full -- you</b></p> <p>10 <b>just said that this is how you schedule</b></p> <p>11 <b>depositions, right, for a case, you use this</b></p> <p>12 <b>document?</b></p> <p>13 Q. Well, it's a tool about contacting</p> <p>14 witnesses.</p> <p>15 <b>A. Contacting?</b></p> <p>16 Q. Right.</p> <p>17 <b>A. Okay. So when you sent me the full</b></p> <p>18 <b>26(a) last week, I saw that there were a lot of my</b></p> <p>19 <b>peers in my same position that reported to</b></p> <p>20 <b>Mr. Barger.</b></p> <p>21 Q. Um-hmm.</p> <p>22 <b>A. When were those folks subpoenaed and</b></p> <p>23 <b>when were their depositions held?</b></p> <p>24 Q. They weren't necessarily all</p> <p>25 subpoenaed or deposed.</p>
82	<p>1 <b>A. Yes.</b></p> <p>2 Q. -- if you did not receive it until</p> <p>3 8/13, then, why did you believe Saul Ewing was</p> <p>4 your attorney prior to that date?</p> <p>5 <b>A. Again, I told you the way I received</b></p> <p>6 <b>the subpoena, I thought that Saul Ewing was my</b></p> <p>7 <b>attorney because I was being called to testify or</b></p> <p>8 <b>to talk to you about the plaintiff.</b></p> <p>9 Q. Okay. Do you --</p> <p>10 <b>A. Then, then, no, I didn't quite</b></p> <p>11 <b>understand it at the time, if that was -- sorry,</b></p> <p>12 <b>if that was going to be your next question.</b></p> <p>13 Q. Okay. Do you understand now that</p> <p>14 Saul Ewing is not your attorney?</p> <p>15 <b>A. You are not my attorney?</b></p> <p>16 Q. Correct.</p> <p>17 <b>A. Then, yes.</b></p> <p>18 Q. Okay. So --</p> <p>19 <b>A. So what does this mean, then? Can</b></p> <p>20 <b>you clarify what it means, if you are not my</b></p> <p>21 <b>attorney, but I can only be contacted through you</b></p> <p>22 <b>about this case?</b></p> <p>23 Q. Right. So these are initial</p> <p>24 disclosures. These documents are not filed with</p> <p>25 the court. They are exchanged with opposing</p>	84	<p>1 <b>A. Why was I?</b></p> <p>2 Q. Because at the time that depositions</p> <p>3 started in this case, you had filed a charge,</p> <p>4 Mr. Shearer was representing you in connection</p> <p>5 with that charge, and the rules of professional</p> <p>6 conduct that govern attorneys provide that an</p> <p>7 attorney cannot contact an individual who is</p> <p>8 represented by counsel, and because at that point</p> <p>9 you were represented by Mr. Shearer -- and I know</p> <p>10 since then you have said multiple times that he</p> <p>11 does not represent you in connection with that</p> <p>12 deposition, but the rules do not provide</p> <p>13 representation for particular matters. It says if</p> <p>14 a person is represented, we have to go through</p> <p>15 counsel, and so because you were represented, we</p> <p>16 wanted to make sure that all communications with</p> <p>17 you were on the record. There have also -- as you</p> <p>18 will admit or you have admitted, there were some</p> <p>19 miscommunications about the childcare. So we</p> <p>20 wanted to make sure that our communications with</p> <p>21 you and when we questioned you and talked to you</p> <p>22 about Mr. Barger's case that Mr. Shearer had an</p> <p>23 opportunity to be present and that we had a</p> <p>24 recorded transcript so that there was no confusion</p> <p>25 going forward.</p>

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22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 <b>A. But didn't Mr. Shearer -- I mean,</b></p> <p>2 <b>he's been involved with this case a long time. I</b></p> <p>3 <b>mean, didn't he tell you or Mr. Eidelman that he</b></p> <p>4 <b>did not represent me?</b></p> <p>5 Q. Yes, he did. But at that point, you</p> <p>6 had a pending charge against the company, and we</p> <p>7 made the decision to depose you, which is our</p> <p>8 right under the rules of court.</p> <p>9 <b>A. Interesting. Okay. Are we done with</b></p> <p>10 <b>this?</b></p> <p>11 Q. Yeah, I'll take that back. So have</p> <p>12 you seen any other versions of Rule 26(a)</p> <p>13 disclosures?</p> <p>14 <b>A. Yes. You sent it to me last week.</b></p> <p>15 Q. Besides the one I sent to you last</p> <p>16 week, have you seen any other versions?</p> <p>17 <b>A. Not that I know of.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. No.</b></p> <p>20 MS. COOPER: Let's go ahead and take</p> <p>21 the first 5-minute break.</p> <p>22 (Brief recess.)</p> <p>23 BY MS. COOPER:</p> <p>24 Q. We can go back on. I just want to go</p> <p>25 back to the date that you were served with the</p>	<p style="text-align: right;">87</p> <p>1 Q. About the subpoena. What is their</p> <p>2 occupation?</p> <p>3 <b>A. One is an attorney and one is in the</b></p> <p>4 <b>Army actually.</b></p> <p>5 Q. Which one is the attorney?</p> <p>6 <b>A. Brian.</b></p> <p>7 Q. Brian, what's his last name?</p> <p>8 <b>A. Weaver.</b></p> <p>9 Q. What's Tommy's last name?</p> <p>10 <b>A. Weaver.</b></p> <p>11 Q. Okay. So you spoke to Brian, your</p> <p>12 cousin, about the subpoena?</p> <p>13 <b>A. I just asked him about subpoenas in</b></p> <p>14 <b>general.</b></p> <p>15 Q. What did you ask him?</p> <p>16 <b>A. I asked him how he could be served.</b></p> <p>17 MR. SHEARER: Wait a second.</p> <p>18 Objection. To the extent that he's an attorney,</p> <p>19 she shouldn't be testifying as to what he told her</p> <p>20 about the law.</p> <p>21 THE WITNESS: That's true, yeah,</p> <p>22 that's privileged.</p> <p>23 BY MS. COOPER:</p> <p>24 Q. Is Brian your attorney?</p> <p>25 <b>A. Could be in that situation.</b></p>
<p style="text-align: right;">86</p> <p>1 subpoena, May 23rd, you said that your kids were</p> <p>2 in the pool --</p> <p>3 <b>A. Um-hmm.</b></p> <p>4 Q. -- when you said your husband told</p> <p>5 you that there was somebody at the door?</p> <p>6 <b>A. Um-hmm, yes.</b></p> <p>7 Q. Where were your kids when you went to</p> <p>8 the front door to talk to the process server?</p> <p>9 <b>A. Behind me.</b></p> <p>10 Q. Okay. So your kids were with you at</p> <p>11 the front door?</p> <p>12 <b>A. They had to get out of the pool and</b></p> <p>13 <b>come with me.</b></p> <p>14 Q. So they came with you, and, you know,</p> <p>15 did they have a conversation with the process</p> <p>16 server?</p> <p>17 <b>A. No. They're very friendly. They</b></p> <p>18 <b>didn't say anything to him. They just asked:</b></p> <p>19 <b>Mommy, who is that, who is that man?</b></p> <p>20 Q. How old are they?</p> <p>21 <b>A. I have two five-year-olds and a</b></p> <p>22 <b>three-year-old.</b></p> <p>23 Q. Also, you said that you talked to</p> <p>24 your cousins, Tommy and Brian, was it?</p> <p>25 <b>A. Um-hmm.</b></p>	<p style="text-align: right;">88</p> <p>1 Q. But you have said multiple times in</p> <p>2 writing that you are unrepresented in connection</p> <p>3 with this?</p> <p>4 MR. SHEARER: You've got the</p> <p>5 privilege all wrong again. If she asks somebody</p> <p>6 about legal advice and he's an attorney, that</p> <p>7 conversation is privileged whether or not it's in</p> <p>8 this matter or another, the request for legal</p> <p>9 advice and providing of legal advice is</p> <p>10 privileged.</p> <p>11 BY MS. COOPER:</p> <p>12 Q. So are you saying that at any point</p> <p>13 in connection with this subpoena, have you been</p> <p>14 represented, have you had an attorney?</p> <p>15 MR. SHEARER: Objection.</p> <p>16 MS. COOPER: Okay. Are you</p> <p>17 instructing your witness or Ms. Kelly not to</p> <p>18 answer?</p> <p>19 MR. SHEARER: No. I'm objecting to</p> <p>20 your question.</p> <p>21 MS. COOPER: Your objection is noted</p> <p>22 for the record.</p> <p>23 BY MS. COOPER:</p> <p>24 Q. At any time during this deposition</p> <p>25 process, since you've received the subpoena, have</p>

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23 (89 to 92)

89	<p>1 you been represented by counsel in connection with</p> <p>2 this deposition?</p> <p>3 <b>A. I thought you represented me.</b></p> <p>4 Q. Okay. So did you ask your cousin,</p> <p>5 Brian, whether Saul Ewing would be your attorney</p> <p>6 if they served you a subpoena?</p> <p>7 <b>A. No. I asked him how subpoenas could</b></p> <p>8 <b>be served, that was the extent of the</b></p> <p>9 <b>conversation.</b></p> <p>10 Q. Okay.</p> <p>11 <b>A. End of story.</b></p> <p>12 Q. Okay. If you believed that Saul</p> <p>13 Ewing was your attorney, why did you not call Saul</p> <p>14 Ewing?</p> <p>15 <b>A. I sent you a letter -- Mr. Eidelman a</b></p> <p>16 <b>letter and asked him. If you want to reference</b></p> <p>17 <b>those again, we can.</b></p> <p>18 Q. Right. All right. We're going to</p> <p>19 get back to the e-mails now. This was all before</p> <p>20 you saw the Rule 26(a), the initial disclosures?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Okay.</p> <p>23 (Thereupon, Kelly Exhibit 16, 2</p> <p>24 2-sided pages of e-mails, the top dated 7/13/18 to</p> <p>25 Gillian Cooper from Julie Kelly, was marked for</p>	91
90	<p>1 purposes of identification.)</p> <p>2 BY MS. COOPER:</p> <p>3 Q. So I'm showing you what has been</p> <p>4 marked as Exhibit 16. Do you recognize this</p> <p>5 document?</p> <p>6 <b>A. Yes, and I actually referenced this a</b></p> <p>7 <b>little while ago.</b></p> <p>8 Q. What part did you reference?</p> <p>9 <b>A. When I was asking you and</b></p> <p>10 <b>Mr. Eidelman if you were my lawyers, and</b></p> <p>11 <b>Mr. Eidelman had a very snarky remark back to me:</b></p> <p>12 <b>Where did you ever get that idea?</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. On page 2.</b></p> <p>15 Q. Okay. So let's -- so this is an</p> <p>16 e-mail chain. Let's start -- because it's an</p> <p>17 e-mail chain, it kind of goes back in time. So if</p> <p>18 we can turn to page 3, again, a little bit of the</p> <p>19 way down, it says: From Cooper Gillian A., from</p> <p>20 me, dated Tuesday, July 10th, 2018, To and then</p> <p>21 it's to J U L underscore Kelly at mac dot com,</p> <p>22 copying Gary Eidelman. Can you read the e-mail to</p> <p>23 me?</p> <p>24 <b>A. Dear Ms. Kelly, we are in receipt of</b></p> <p>25 <b>your letter dated June 27th, 2018. You should</b></p>	92

1 have received a letter from me last week. The

2 letters must have crossed paths in the snail mail.

3 You provided your e-mail address in the letter, so

4 hopefully, this will be most efficient to connect.

5 I'm hoping I can clear a few things up. You may

6 or may not be aware, but there are restrictions

7 that prevent attorneys from communicating with

8 individuals who are known to be represented by

9 counsel. After we received the charge you filed

10 with the OCRC, even though it's entirely unrelated

11 to the Barger lawsuit, and learned that you were

12 represented by counsel in that case, we were

13 required to follow those rules that prevent us

14 from communicating with someone who is represented

15 by an attorney. Since servicing -- since serving

16 the deposition subpoena, however, you have

17 indicated that you are not represented by counsel

18 and willing to speak to us about the Barger

19 lawsuit. Can we set up a call this week? And

20 hopefully by arranging a call, we can avoid a

21 deposition altogether. Let me know what works

22 best for you and we can set this up.

23 Q. And then did you respond to my

24 e-mail?

25 **A. I did. I asked you if you were my**

1 lawyer.

2 Q. Okay. And above that at 10:05,

3 Mr. Eidelman responded. And could you please read

4 what Mr. Eidelman wrote?

5 **A. He said that you are his associate**

6 **and we are contacting you by e-mail.**

7 Q. Okay. So he says: No, she is my

8 associate. Per your letter, we are contacting you

9 by e-mail. And then what did you respond?

10 **A. I asked Mr. Eidelman if he was my**

11 **lawyer, and I misspelled Mr., must have been auto**

12 **correct, so I sent it again, apologizing. And**

13 **then I get: No, I have not and never have been.**

14 **Wherever did you get that idea?**

15 Q. Okay. Again, so where did you get

16 that idea?

17 **A. Again, from the subpoena --**

18 Q. Okay.

19 **A. -- because I received it from Saul**

20 **Ewing, Mr. Eidelman in particular. I believe he**

21 **was on the first one.**

22 Q. Okay.

23 **A. And I was being asked to come and**

24 **talk to you, who are the attorneys for the**

25 **defendant, about the plaintiff, Mr. Barger.**

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Conducted on October 15, 2018

24 (93 to 96)

93	<p>1 Q. Okay.</p> <p>2 A. And that's what I say right here, you</p> <p>3 gave me that idea as you are the lawyer for First</p> <p>4 Data's defendants.</p> <p>5 Q. Okay. Well, that's a little</p> <p>6 different than what you have said.</p> <p>7 A. That's what I am meaning.</p> <p>8 Q. So what are you meaning?</p> <p>9 A. That's the same to me.</p> <p>10 Q. What?</p> <p>11 A. From what I saw on that subpoena, you</p> <p>12 were the attorneys for the defendants asking me to</p> <p>13 speak about the plaintiff.</p> <p>14 Q. Okay. Are you a defendant in</p> <p>15 Mr. Barger's lawsuit?</p> <p>16 A. No.</p> <p>17 Q. Okay.</p> <p>18 A. But you were asking me to come and</p> <p>19 speak about the plaintiff, so I'm assuming whether</p> <p>20 it's called counsel or attorney or lawyer, I</p> <p>21 assumed that that's what you were.</p> <p>22 Q. Okay. So you're saying here that you</p> <p>23 gave me the idea, as you are the lawyer for First</p> <p>24 Data's defendants?</p> <p>25 A. Yeah. I did not elaborate on what I</p>	95	<p>1 A. Honestly, I think one of my kids had</p> <p>2 had an accident in the pool and we were trying to</p> <p>3 figure out how to clean it, so I was very</p> <p>4 distracted.</p> <p>5 Q. What do you mean, when was the --</p> <p>6 A. When I was talking to Nick.</p> <p>7 Q. Okay.</p> <p>8 A. That was --</p> <p>9 Q. Okay.</p> <p>10 A. That's how I remember it, so I don't</p> <p>11 know when it was, sometime this summer.</p> <p>12 Q. So we've talked a bit about the need</p> <p>13 for childcare in connection with the subpoena</p> <p>14 and -- the deposition, I'm sorry. You've also</p> <p>15 said that you had to arrange for care for your</p> <p>16 brother and your mother-in-law?</p> <p>17 A. Um-hmm.</p> <p>18 Q. Okay. What sort of care would you</p> <p>19 need to arrange for them?</p> <p>20 A. To make sure that there was someone</p> <p>21 at my home. My mother-in-law lives in the bottom</p> <p>22 floor in her own apartment. She does not drive.</p> <p>23 Q. Okay.</p> <p>24 A. And then I have a special needs</p> <p>25 brother who needs assistance to and from work,</p>
94	<p>1 just said, but it's the same thing.</p> <p>2 Q. Okay. And so what did I respond?</p> <p>3 A. You said: We are not your lawyers.</p> <p>4 Please provide us with dates that you are</p> <p>5 available for a deposition. If we cannot agree to</p> <p>6 a date, we will be forced to move before the</p> <p>7 United States District Court for the Southern</p> <p>8 District of Ohio to compel your deposition.</p> <p>9 Q. Okay. And what did you respond?</p> <p>10 A. I responded with: Quite honestly, I</p> <p>11 have no idea who either of you are other than</p> <p>12 lawyers for First Data defendants in a federal</p> <p>13 lawsuit. I don't understand why I'm being asked</p> <p>14 to provide other dates for a deposition when I</p> <p>15 showed up to the original not-canceled one.</p> <p>16 Q. Okay. I want to go back to when you</p> <p>17 say that you spoke with -- here, I can take that</p> <p>18 one.</p> <p>19 You said you spoke to Nick Mantia.</p> <p>20 Who called whom?</p> <p>21 A. I have no idea.</p> <p>22 Q. Okay. And when was the conversation?</p> <p>23 A. I have no idea. I told you that</p> <p>24 earlier.</p> <p>25 Q. Okay.</p>	96	<p>1 those types of things.</p> <p>2 Q. Okay. So your brother works?</p> <p>3 A. He does.</p> <p>4 Q. Okay. Did you have to arrange for</p> <p>5 care for him for today's deposition?</p> <p>6 A. I did not.</p> <p>7 Q. Okay. And what about your</p> <p>8 mother-in-law?</p> <p>9 A. No. We have a sitter at the house,</p> <p>10 so it is arranged with the sitter.</p> <p>11 Q. Okay. And this is your</p> <p>12 mother-in-law, who you said reviewed and was the</p> <p>13 editor at a magazine or some sort of publication?</p> <p>14 A. Yes, um-hmm.</p> <p>15 Q. Okay. At some point, you contacted</p> <p>16 Barry Levin at my law firm?</p> <p>17 A. Um-hmm.</p> <p>18 Q. How did you receive Mr. Levin's name?</p> <p>19 A. Your website.</p> <p>20 Q. Okay. Why were you reaching out to</p> <p>21 him?</p> <p>22 A. Because, quite honestly, I wasn't</p> <p>23 getting anywhere with yourself and Mr. Eidelman.</p> <p>24 I felt like I was being targeted and harassed, and</p> <p>25 I thought he was your boss, quite honestly.</p>

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25 (97 to 100)

97	<p>1 Q. Okay. What --</p> <p>2 <b>A. I don't know if he is or not.</b></p> <p>3 Q. What conduct made you feel targeted</p> <p>4 and harassed?</p> <p>5 <b>A. For one, the subpoena, the way that</b></p> <p>6 <b>came to me, and then no one showing up for the</b></p> <p>7 <b>subpoena.</b></p> <p>8 Q. Okay. So those two instances are</p> <p>9 what led you to feel harassed. Was there anything</p> <p>10 else that led you to feel harassed?</p> <p>11 <b>A. It was just the whole conduct felt</b></p> <p>12 <b>unethical to me.</b></p> <p>13 Q. What other conduct?</p> <p>14 <b>A. The conduct that Mr. Eidelman and</b></p> <p>15 <b>yourself were conducting towards me, it felt</b></p> <p>16 <b>hostile.</b></p> <p>17 Q. Okay. I'm asking for specifics, what</p> <p>18 conduct; you said serving the subpoena?</p> <p>19 <b>A. Um-hmm. The e-mails.</b></p> <p>20 Q. The e-mails that I just read, the</p> <p>21 e-mails that --</p> <p>22 <b>A. Yes, specifically the one where</b></p> <p>23 <b>Mr. Eidelman responds: Wherever did you get that</b></p> <p>24 <b>idea?</b></p> <p>25 Q. Okay. And so that you believe is --</p>	99
98	<p>1 <b>to me to get me to talk to you about the Barger</b></p> <p>2 <b>case.</b></p> <p>3 Q. What do you mean, went against you?</p> <p>4 Without getting into --</p> <p>5 <b>A. You were adverse to me in your</b></p> <p>6 <b>response.</b></p> <p>7 Q. Because I represent First Data?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Okay. When did you find out that I</p> <p>10 represented First Data?</p> <p>11 <b>A. When I got a copy of what you filed</b></p> <p>12 <b>with the OCRC.</b></p> <p>13 Q. Okay. And so because I represent</p> <p>14 First Data, you believe that to be --</p> <p>15 <b>A. I read what you wrote, Gillian.</b></p> <p>16 Q. Okay. All right. We've agreed not</p> <p>17 to --</p> <p>18 <b>A. We're not going to talk about that,</b></p> <p>19 <b>but let's just put it that way.</b></p> <p>20 Q. All right. So that is -- in this</p> <p>21 case, what sort of conduct contributed to your</p> <p>22 belief that there's been harassment?</p> <p>23 <b>A. Well, what I already said.</b></p> <p>24 Q. Okay.</p> <p>25 <b>A. And then when I got further</b></p>	100
99	<p>1 that's what forms your opinion that there was</p> <p>2 harassment?</p> <p>3 <b>A. Well, that's one instance.</b></p> <p>4 Q. What else?</p> <p>5 <b>A. And the letters, and then obviously</b></p> <p>6 <b>standing me up for a scheduled subpoena.</b></p> <p>7 Q. Okay. Were there other letters that</p> <p>8 you received besides the ones that we have gone</p> <p>9 through today from --</p> <p>10 <b>A. I don't believe so.</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. I mean, I keep track of everything.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. I think you have them.</b></p> <p>15 Q. So the May 25th letter from</p> <p>16 Mr. Eidelman, I think that's the only one we've</p> <p>17 talked about, and then my e-mail to you on July</p> <p>18 10th where I say we are in receipt of your letter,</p> <p>19 I was hoping I could clear a few things up that</p> <p>20 we've just gone through -- I'm not going to read</p> <p>21 it again. What else made you feel harassed or</p> <p>22 made you believe that there was unethical conduct?</p> <p>23 <b>A. I also found out through the OCRC</b></p> <p>24 <b>that you were the one who filed against me for my</b></p> <p>25 <b>case, and on the same day, you tried to reach out</b></p>	100

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26 (101 to 104)

101	<p>1 Q. Did you receive a response back from 2 anyone?</p> <p>3 <b>A. I received a response from Timothy 4 Callahan, the junior or the third, I'm not sure. 5 Is it the third?</b></p> <p>6 Q. It might be.</p> <p>7 <b>A. I don't know.</b></p> <p>8 Q. Actually, no. It's the second, Jr.</p> <p>9 <b>A. Okay, yeah.</b></p> <p>10 Q. Okay. So you received a response 11 back from Mr. Callahan?</p> <p>12 <b>A. Uh-huh.</b></p> <p>13 Q. And rather than ask you if you 14 remember what he wrote, I will show you Exhibit 15 17. Again, it's an e-mail chain, so if we turn to 16 the second and third page.</p> <p>17 <b>A. Um-hmm.</b></p> <p>18 Q. So Mr. Callahan e-mailed you on July 19 19th, 2018. And can you please read 20 Mr. Callahan's e-mail?</p> <p>21 <b>A. Sure. To Julie Kelly. I didn't know 22 I would be reading all day. But the e-mail you 23 sent me on Thursday evening, July 12th, 2018, to 24 Barry Levin, the managing partner of Saul Ewing 25 Arnstein &amp; Lehr, LLP, has been referred to me</b></p>	103	<p>1 Go to the second full paragraph, fifth line from 2 the bottom starts: While I, that sentence.</p> <p>3 <b>A. Oh, yes.</b></p> <p>4 Q. Okay. Can you read while I don't 5 recall and then read the rest of that?</p> <p>6 <b>A. Yes. While I don't recall promising 7 to pay Saul Ewing, it is my -- in that my name 8 appears on a list of people given by Mr. Eidelman 9 to the court months ago and that on that document 10 Saul Ewing instructs Mr. Barger's counsel that I 11 can only be contacted about the Barger case 12 through Saul Ewing. I guess Saul Ewing is called 13 undersigned counsel, but I don't know what that 14 means.</b></p> <p>15 Q. Okay. So I want to -- we talked 16 about the initial disclosures?</p> <p>17 <b>A. Yes, we have.</b></p> <p>18 Q. And you said that you received them 19 before you made that filing on August 14th, 2018?</p> <p>20 <b>A. Um-hmm.</b></p> <p>21 Q. You said you received it probably the 22 day before?</p> <p>23 <b>A. Yeah, like I don't know.</b></p> <p>24 Q. But this is almost a month before 25 because that was August 14th, this is July 20th.</p>
102	<p>1 <b>because I serve as the general counsel to the law 2 firm. I have looked into the events mentioned in 3 your e-mail. Under the circumstance -- 4 circumstances, I believe it's best to respond as 5 follows:</b></p> <p>6 <b>No. 1, my law firm represents First 7 Data Corporation and certain others in connection 8 with a lawsuit filed on behalf of Steven Barger 9 against our clients. Neither Mr. Levin nor Gary 10 Eidelman nor Gillian Cooper nor me nor anyone else 11 who works at my law firm represents you. As a 12 former employee of First Data Corporation, you may 13 have knowledge that is relevant to the case, so we 14 would like to take your deposition.</b></p> <p>15 Q. Okay. I'm going to stop you there. 16 We don't have to read the rest of it. You're free 17 to take a look at it, but we don't need to read 18 the rest of it.</p> <p>19 <b>A. Okay.</b></p> <p>20 Q. So you received this letter from 21 Mr. -- or this e-mail from Mr. Callahan. You 22 respond back -- let's go back to the first page of 23 Exhibit 17.</p> <p>24 <b>A. Um-hmm.</b></p> <p>25 Q. So you reply back July 20th, 2018.</p>	104	<p>1 So when did you receive the initial disclosures?</p> <p>2 <b>A. I may not have received it, but I 3 heard of it.</b></p> <p>4 Q. Who told you?</p> <p>5 <b>A. I heard from --</b></p> <p>6 MR. SHEARER: Objection.</p> <p>7 MS. COOPER: Okay. Noted for the 8 record.</p> <p>9 BY MS. COOPER:</p> <p>10 Q. Who told you that?</p> <p>11 MR. SHEARER: To the extent it 12 requires you to reveal conversations with counsel, 13 I instruct her not to answer.</p> <p>14 MS. COOPER: Okay. Well, does it 15 require --</p> <p>16 BY MS. COOPER:</p> <p>17 Q. Did you have a conversation with an 18 attorney about the Rule 26(a) disclosures?</p> <p>19 <b>A. I looked up what a 26(a) was on the 20 Internet.</b></p> <p>21 Q. Okay. And why did you look that up 22 on the Internet?</p> <p>23 <b>A. Because I want to know what this list 24 is.</b></p> <p>25 Q. Okay. So somebody told you that</p>

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27 (105 to 108)

105	<p>1 there was the initial disclosure list?</p> <p>2 <b>A. I don't know.</b></p> <p>3 Q. Okay.</p> <p>4 <b>A. I know you didn't have me read the</b></p> <p>5 <b>second part of Mr. Callahan's letter to me.</b></p> <p>6 Q. You can read it if you --</p> <p>7 <b>A. But I just wanted to bring up that</b></p> <p>8 <b>that's kind of what really made me respond,</b></p> <p>9 <b>because I felt that he didn't care about my</b></p> <p>10 <b>complaints and he was -- of harassment, and he was</b></p> <p>11 <b>brushing it under the table when he clearly could</b></p> <p>12 <b>have said thank you for letting me know, I can</b></p> <p>13 <b>look into it. I was just very put off by that and</b></p> <p>14 <b>very confused on his response.</b></p> <p>15 Q. Okay. So it's clear, Mr. Callahan's</p> <p>16 e-mail continues and it says: Suffice it to say</p> <p>17 that we respectfully disagree with a number of</p> <p>18 your assertions, especially to the extent that</p> <p>19 they suggest that anyone at my law firm acted</p> <p>20 inappropriately with regard to attempting to</p> <p>21 schedule your deposition. That said, I do not</p> <p>22 believe that further discussion of this matter in</p> <p>23 an e-mail from me would be productive at this</p> <p>24 time.</p> <p>25 So you were not happy with that</p>	107	<p>1 Q. Okay. But you want to talk to Saul</p> <p>2 Ewing's attorney related to your OCRC charge?</p> <p>3 <b>A. Yes, because some of the people at</b></p> <p>4 <b>Saul Ewing are going to be witnesses once I'm able</b></p> <p>5 <b>to move forward with my OCRC case.</b></p> <p>6 Q. Okay.</p> <p>7 (Thereupon, Kelly Exhibit 18, a</p> <p>8 1-page e-mail dated 7/24/18 to Barry Levin from</p> <p>9 Julie Kelly, was marked for purposes of</p> <p>10 identification.)</p> <p>11 BY MS. COOPER:</p> <p>12 Q. Let me show you what's been marked as</p> <p>13 Exhibit 18. Have you seen this document before?</p> <p>14 <b>A. What is wrong with my spacing? Yes,</b></p> <p>15 <b>I have.</b></p> <p>16 Q. Okay. What is this document?</p> <p>17 <b>A. Can I take a moment to read this?</b></p> <p>18 Q. Sure.</p> <p>19 <b>A. So I wrote this after you filed a</b></p> <p>20 <b>motion to compel me for a subpoena I showed up for</b></p> <p>21 <b>in the State of Ohio. I sent this e-mail to</b></p> <p>22 <b>Mr. Callahan and Mr. Levin.</b></p> <p>23 Q. Okay. You say in here that, quote:</p> <p>24 They have lied to the court in Ohio.</p> <p>25 <b>A. Yes.</b></p>
106	<p>1 response?</p> <p>2 <b>A. No. But I see there is a little play</b></p> <p>3 <b>on words here in my opinion where he said</b></p> <p>4 <b>attempting to schedule. He doesn't mention how I</b></p> <p>5 <b>got stood up.</b></p> <p>6 Q. Okay.</p> <p>7 <b>A. So whether or not that is, I mean,</b></p> <p>8 <b>that's kind of how I'm interpreting that.</b></p> <p>9 Q. Okay. All right.</p> <p>10 <b>A. Can I ask a question?</b></p> <p>11 Q. No. Actually, go ahead.</p> <p>12 <b>A. I just want to know if we're going to</b></p> <p>13 <b>be able to talk about the Barger case?</b></p> <p>14 Q. Yes, we will.</p> <p>15 <b>A. Okay.</b></p> <p>16 Q. In a couple of your communications</p> <p>17 with Mr. Callahan, you have asked that Saul</p> <p>18 Ewing's lawyer get in touch with you?</p> <p>19 <b>A. Um-hmm.</b></p> <p>20 Q. Why are you looking to talk to Saul</p> <p>21 Ewing's attorney?</p> <p>22 <b>A. That is for my OCRC case.</b></p> <p>23 Q. But you wrote it in connection with</p> <p>24 the third-party witness subpoena?</p> <p>25 <b>A. Yes.</b></p>	108	<p>1 Q. What were the lies that were told to</p> <p>2 the court?</p> <p>3 <b>A. The motion to compel.</b></p> <p>4 Q. Okay.</p> <p>5 <b>A. You can't compel me to something I</b></p> <p>6 <b>already did.</b></p> <p>7 Q. Okay. What is the basis for that</p> <p>8 statement, why do you believe that you can't be</p> <p>9 compelled to do something that you've already</p> <p>10 done?</p> <p>11 <b>A. Because the motion to compel is to</b></p> <p>12 <b>get you to do something, and your motion to compel</b></p> <p>13 <b>was for the first subpoena, which I showed up at.</b></p> <p>14 Q. Okay. Right. But we agree that</p> <p>15 there was apparently some confusion about whether</p> <p>16 you would be showing up?</p> <p>17 <b>A. No, there was no confusion.</b></p> <p>18 Q. Okay. So let me ask you this, then,</p> <p>19 if we had shown up on June 25th, you had three</p> <p>20 children with you?</p> <p>21 <b>A. Um-hmm.</b></p> <p>22 Q. You have testified that you</p> <p>23 misunderstood that childcare would not be</p> <p>24 provided, but that it would be reimbursed?</p> <p>25 <b>A. Um-hmm.</b></p>

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28 (109 to 112)

109	<p>1 Q. Would you have expected that the</p> <p>2 deposition go forward while you had three</p> <p>3 children?</p> <p>4 <b>A. I would. I would have made something</b></p> <p>5 <b>work, of course.</b></p> <p>6 Q. What would you have done?</p> <p>7 <b>A. I would have called my oldest</b></p> <p>8 <b>daughter.</b></p> <p>9 Q. To what?</p> <p>10 <b>A. Come get the children.</b></p> <p>11 Q. Okay. And how long would that have</p> <p>12 taken?</p> <p>13 <b>A. 10 minutes.</b></p> <p>14 Q. Okay. So you live 10 minutes away</p> <p>15 from the office where the deposition took place?</p> <p>16 <b>A. She does during the summer.</b></p> <p>17 Q. Okay. All right. So had the</p> <p>18 deposition gone forward, you would have made</p> <p>19 arrangements for your children to be picked up so</p> <p>20 you --</p> <p>21 <b>A. Absolutely.</b></p> <p>22 Q. Okay. I'll take that. Thank you.</p> <p>23 What is a Rule 11 or what is Rule 11?</p> <p>24 <b>A. Rule 11, from my understanding, is</b></p> <p>25 <b>when an attorney has not told the truth on</b></p>	111	<p>1 <b>A. I had some bullet points in my</b></p> <p>2 <b>e-mail.</b></p> <p>3 Q. But I'm asking you what you recall of</p> <p>4 the lie.</p> <p>5 <b>A. Well, a big one would be the whole</b></p> <p>6 <b>motion to compel.</b></p> <p>7 Q. Okay. Explain to me how that is a</p> <p>8 lie.</p> <p>9 <b>A. Because I showed up for the subpoena</b></p> <p>10 <b>that the motion to compel was based upon.</b></p> <p>11 Q. Okay. And I agree that you showed up</p> <p>12 on June 25th, which is the date that was</p> <p>13 designated. Has Saul Ewing, myself, or</p> <p>14 Mr. Eidelman, ever told the court that you did not</p> <p>15 show up?</p> <p>16 <b>A. They told -- Mr. Eidelman told on the</b></p> <p>17 <b>record and these documents were filed that I did</b></p> <p>18 <b>not show up.</b></p> <p>19 Q. Right, that was on June 25th. But</p> <p>20 has --</p> <p>21 <b>A. Those papers were filed as exhibits</b></p> <p>22 <b>with the court.</b></p> <p>23 Q. Right. You filed them?</p> <p>24 <b>A. Um-hmm.</b></p> <p>25 Q. Okay. Has Saul Ewing ever told the</p>
110	<p>1 <b>something and I'm asking them to correct it in a</b></p> <p>2 <b>certain amount of time, I believe it's 21 days.</b></p> <p>3 Q. Where did you learn that?</p> <p>4 <b>A. Google.</b></p> <p>5 Q. What did you Google?</p> <p>6 <b>A. Lawyers lying.</b></p> <p>7 Q. Okay. And --</p> <p>8 <b>A. Or attorneys lying or something like</b></p> <p>9 <b>that, I can't remember.</b></p> <p>10 Q. So you Googled lawyers lying,</p> <p>11 attorneys lying, and what website did you go to?</p> <p>12 <b>A. Oh, gosh, I don't know. I used a</b></p> <p>13 <b>bunch, Cornell a lot.</b></p> <p>14 Q. What did you read?</p> <p>15 <b>A. Basically read what you can write.</b></p> <p>16 <b>You can send a notification to an attorney about</b></p> <p>17 <b>your complaint asking them to take it back, redact</b></p> <p>18 <b>it, I'm not sure what the terms are, and I believe</b></p> <p>19 <b>they have 21 days before it can go forward to a</b></p> <p>20 <b>judge or a magistrate.</b></p> <p>21 Q. Okay. Does the rule apply to anyone</p> <p>22 else besides attorneys?</p> <p>23 <b>A. I don't know.</b></p> <p>24 Q. Okay. And, again, what was the lie</p> <p>25 that you believed Saul Ewing had to retract?</p>	112	<p>1 court, ever said in a court filing that Saul Ewing</p> <p>2 filed, not that you filed, that Saul Ewing filed,</p> <p>3 that you believe is not truthful, has Saul Ewing</p> <p>4 ever filed a document that said you did not show</p> <p>5 up?</p> <p>6 <b>A. I'd have to go through them line by</b></p> <p>7 <b>line again, there's so many.</b></p> <p>8 Q. Okay. So is it to say that your</p> <p>9 basis that Saul Ewing violated Rule 11 is because</p> <p>10 on June 25th during a deposition Mr. Eidelman said</p> <p>11 that he believed that you did not show up?</p> <p>12 <b>A. I have to read the Rule 11. Do you</b></p> <p>13 <b>have it?</b></p> <p>14 Q. I do, but I'm not going to enter it.</p> <p>15 I'm just asking you what you can recall about it.</p> <p>16 <b>A. I didn't review that document.</b></p> <p>17 Q. So you did not review the Rule 11</p> <p>18 e-mail?</p> <p>19 <b>A. No. I thought I was coming here to</b></p> <p>20 <b>you talk about the Barger case and not</b></p> <p>21 <b>specifically the Ohio case, so no.</b></p> <p>22 Q. Okay. Besides the motion to compel,</p> <p>23 what do you believe are other lies that Saul Ewing</p> <p>24 has said?</p> <p>25 <b>A. I would have to review the documents.</b></p>

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29 (113 to 116)

113	<p>1 Again, I did not prepare to speak about the Ohio</p> <p>2 filings.</p> <p>3 Q. We're talking about the filings that</p> <p>4 brought us to your deposition today.</p> <p>5 A. Right. I was not prepared to talk</p> <p>6 about those. I was prepared to talk about the</p> <p>7 Barger case.</p> <p>8 Q. That's fine. From what you recall,</p> <p>9 what are the other lies?</p> <p>10 A. Again, I would have to take a look at</p> <p>11 the documents.</p> <p>12 Q. So you don't remember any off the top</p> <p>13 of your head?</p> <p>14 A. No. I mean, you threw me off by</p> <p>15 taking all of this time to talk about this Ohio</p> <p>16 case, so --</p> <p>17 Q. That's fine. You do not have</p> <p>18 electronic filing privileges in this miscellaneous</p> <p>19 action?</p> <p>20 A. That's correct. I got denied twice.</p> <p>21 Q. Okay. So when you file anything, how</p> <p>22 do you file?</p> <p>23 A. I drive down to the courthouse, park</p> <p>24 my car, usually have a kid or two in toe, and go</p> <p>25 through security at the courthouse, and walk into</p>	115	<p>1 A. I Google certain situations.</p> <p>2 Q. So what's a situation that you have</p> <p>3 Googled?</p> <p>4 A. Again, I would have to look through</p> <p>5 the documents. I just told you this, I've written</p> <p>6 so much and was not prepared. Had I known we were</p> <p>7 going to be discussing this, I would have read all</p> <p>8 of the documents over the last weekend.</p> <p>9 Q. Okay. At some point you filed a</p> <p>10 declaration of Mr. Shearer, so I don't know if I</p> <p>11 want to --</p> <p>12 A. I believe that's when I was slandered</p> <p>13 by Mr. Eidelman.</p> <p>14 Q. I'm sorry, what was the slander?</p> <p>15 A. When he was calling me a liar.</p> <p>16 Q. Okay. What were you told?</p> <p>17 A. Basically, that I was -- I did not</p> <p>18 show up for the deposition on the 25th.</p> <p>19 Q. Okay. So who told you that?</p> <p>20 A. Mr. Shearer.</p> <p>21 Q. Okay. All right. So you file a</p> <p>22 declaration on --</p> <p>23 A. And that's in there.</p> <p>24 Q. Okay. Who drafted Mr. Shearer's</p> <p>25 declaration?</p>
114	<p>1 the clerk's office and have it filed.</p> <p>2 Q. Okay. Has anybody assisted you in</p> <p>3 any of the filings?</p> <p>4 A. My husband brought one down.</p> <p>5 Q. Okay. So your husband filed one of</p> <p>6 the documents on your behalf?</p> <p>7 A. Yeah. I can't remember which one it</p> <p>8 was. I think it was to get electronic filing</p> <p>9 rights, actually.</p> <p>10 Q. Okay. Actually, I do think I recall</p> <p>11 reading that in one. Okay. So the actual</p> <p>12 documents that you file, who drafts them?</p> <p>13 A. I do.</p> <p>14 Q. Does anybody assist you in drafting</p> <p>15 any of the documents?</p> <p>16 A. No.</p> <p>17 Q. Okay.</p> <p>18 A. Maybe Google, I might research some</p> <p>19 things.</p> <p>20 Q. Okay. So do you have access to any</p> <p>21 case law books or websites?</p> <p>22 A. What is that?</p> <p>23 Q. Okay.</p> <p>24 A. Oh, just to like quote things?</p> <p>25 Q. Any --</p>	116	<p>1 A. I would assume he did.</p> <p>2 Q. Okay. So you did not draft the</p> <p>3 declaration?</p> <p>4 A. No.</p> <p>5 Q. Okay. Did you ask him to draft the</p> <p>6 declaration?</p> <p>7 A. I may have.</p> <p>8 Q. Okay. Why did you need a declaration</p> <p>9 from Mr. Shearer?</p> <p>10 A. To prove to the court what was going</p> <p>11 on.</p> <p>12 Q. What was going on?</p> <p>13 A. I was being told that I was a liar,</p> <p>14 first, with the motion to compel. Look, I am</p> <p>15 trying to be the room mother at my school, I need</p> <p>16 a background check, and if my name comes up for</p> <p>17 this -- all of this stuff we've been talking about</p> <p>18 for the last couple of hours, it could have been</p> <p>19 avoided completely. I did nothing wrong.</p> <p>20 Q. Okay. So First Data filed the motion</p> <p>21 to compel on July 23rd, 2018. Let's see. Okay.</p> <p>22 (Thereupon, Kelly Exhibit 19, a</p> <p>23 1-page e-mail dated 7/31/18 to Julie Kelly from</p> <p>24 Gillian Cooper, was marked for purposes of</p> <p>25 identification.)</p>

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30 (117 to 120)

117	<p>1 BY MS. COOPER:</p> <p>2 Q. I'm going to show you what's been</p> <p>3 marked as Document 19. Have you seen this</p> <p>4 document before?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And what is the date of this</p> <p>7 document?</p> <p>8 A. This is July 31st.</p> <p>9 Q. And what is it?</p> <p>10 A. This is an e-mail from yourself,</p> <p>11 Gillian Cooper, basically saying that you want to</p> <p>12 resolve this thing in Ohio and offering up -- you</p> <p>13 want me to pick one of these three dates.</p> <p>14 Q. Okay.</p> <p>15 A. And I did respond that I could not</p> <p>16 make these dates.</p> <p>17 Q. Right. And so I write in an effort</p> <p>18 to resolve the pending motion in the Southern</p> <p>19 District of Ohio, please advise if you are</p> <p>20 available for a deposition on the following dates</p> <p>21 and times, and then I provide August 28, 29, and</p> <p>22 30. I say: If you agree to be deposed on one of</p> <p>23 the above dates, we can file a consent order to</p> <p>24 schedule the deposition and resolve the</p> <p>25 outstanding motion. If the dates work but times</p>	119	<p>1 you know, if you have to go through a background</p> <p>2 check or any sort of -- you know, for any job</p> <p>3 application or whatever it may be, and then I</p> <p>4 reached out to you and suggested a couple of dates</p> <p>5 to resolve the pending motion, and you respond</p> <p>6 back that you are not available on those dates and</p> <p>7 that you have requested a hearing; is that</p> <p>8 correct?</p> <p>9 A. Um-hmm.</p> <p>10 Q. Okay. And so then I reply, say:</p> <p>11 Understood. Based on your representation that you</p> <p>12 are unavailable on August 28th, 29th, and 30th, we</p> <p>13 do not expect your appearance on those dates. And</p> <p>14 then if you please read what you responded back to</p> <p>15 me.</p> <p>16 A. Yes. You do not seem to grasp what I</p> <p>17 am saying. I'm telling you out of a courtesy that</p> <p>18 I am unavailable on those dates. I am under no</p> <p>19 obligation to tell you. I am doing it because I</p> <p>20 am a courteous person and do not waste other</p> <p>21 people's time like you wasted my time and a day of</p> <p>22 my children's summer break when you didn't show up</p> <p>23 for the June 25th at 10:00 at Cook &amp; Logothetis,</p> <p>24 LLC, 30 Garfield Place, Suite 540, Cincinnati,</p> <p>25 Ohio 45202. I did what the subpoena required, you</p>
118	<p>1 do not, please let me know and we can discuss a</p> <p>2 different start time.</p> <p>3 A. Um-hmm.</p> <p>4 Q. Do you remember receiving this</p> <p>5 e-mail?</p> <p>6 A. I do.</p> <p>7 Q. Okay.</p> <p>8 (Thereupon, Kelly Exhibit 20, 1 page</p> <p>9 of e-mails, the top dated 8/2/18 to Gillian Cooper</p> <p>10 from Julie Kelly, was marked for purposes of</p> <p>11 identification.)</p> <p>12 BY MS. COOPER:</p> <p>13 Q. I'm going to show you what we've</p> <p>14 marked as Exhibit 20. Okay. And we start at the</p> <p>15 bottom, it is an e-mail from you dated August 2nd,</p> <p>16 2018. And what do you write?</p> <p>17 A. I am not available on either of those</p> <p>18 dates.</p> <p>19 Q. Okay. And then if you turn to the</p> <p>20 next page, you say, what?</p> <p>21 A. I have requested a hearing on this</p> <p>22 issue.</p> <p>23 Q. Okay. So if what you just said a</p> <p>24 couple of moments is that you're very concerned</p> <p>25 about your name appearing in any sort of filing,</p>	120	<p>1 didn't. Please do what I asked you to do when I</p> <p>2 filed the Rule 11 and tell the Court the truth. I</p> <p>3 have done what the subpoena told me to do.</p> <p>4 Q. Here I am asking you if we can agree</p> <p>5 to a date and resolve the motion and enter a</p> <p>6 consent order, and you say that you were telling</p> <p>7 me out of courtesy that you're unavailable, but</p> <p>8 you have no obligation to do so.</p> <p>9 I want to go back to the original</p> <p>10 back-and-forth back in June -- or I guess May</p> <p>11 about scheduling the deposition where you tell me</p> <p>12 that you're unavailable or you tell Mr. Eidelman</p> <p>13 that you're unavailable, but, yet, you show up.</p> <p>14 And then here again, you're saying you're</p> <p>15 unavailable. I'm saying: I understand based on</p> <p>16 your representation that you're unavailable, we do</p> <p>17 not expect your appearance. And then you respond</p> <p>18 and say: I'm telling you out of courtesy that I</p> <p>19 am unavailable. I'm under no obligation to tell</p> <p>20 you. I'm doing it because I am a courteous person</p> <p>21 and do not waste other people's time like you</p> <p>22 wasted my time. And then we've already read it</p> <p>23 through.</p> <p>24 A. Um-hmm.</p> <p>25 Q. So why didn't you say at that point,</p>

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31 (121 to 124)

121	<p>1 you know, I don't want there to be a court 2 document, I want to resolve this motion, let's 3 pick a date? 4 <b>A. I can't tell you that. I was very 5 upset at this time. There are laws about how many 6 subpoenas that you can do. You filed against me. 7 I was lied about. You still had not responded 8 about the Rule 11. What do you think an average 9 person would do, Gillian?</b> 10 Q. What is the rule that you're 11 referring to with subpoenas? 12 <b>A. I can't remember, 30-something.</b> 13 Q. Okay. 14 <b>A. Again, I did not prepare to talk 15 about this.</b> 16 Q. I understand, I understand. But I'm 17 talking to you about this miscellaneous action, I 18 can ask you questions related to that. 19 <b>A. Sure, that's fine, but I'm telling 20 you that I don't have the docket in front of me. 21 I don't have all of these --</b> 22 Q. I'm asking you what remember, what 23 you can tell me about -- 24 <b>A. I am doing my best, I am.</b> 25 Q. So what is the rule about subpoenas?</p>	123	<p>1 that was the one that I left you the message about 2 it, I think it was the second one. On August 3 14th, 2018, we had a conference call with the 4 court. What do you recall about that 5 conversation? 6 <b>A. I recall -- let me think about this. 7 It started very late.</b> 8 Q. Yes. 9 <b>A. And the deputy clerk had a dentist 10 appointment and that's why he was late.</b> 11 Q. Yes. 12 <b>A. And the judge -- was it Bowman, is 13 it?</b> 14 Q. Yes. 15 <b>A. Magistrate Stephanie Bowman, it felt 16 to me her impression of this case was just to be a 17 scheduler for a deposition. So when she started 18 out the call, she said -- I can almost quote her 19 on this, because I do remember. She said: I'm 20 here to help you guys schedule a deposition.</b> 21 Q. Okay. 22 <b>A. And, clearly, I mean, that was a part 23 of it, but during that call, I agreed to show up. 24 She didn't file an order. She didn't even -- she 25 hadn't even read any of the documents that had</b></p>
122	<p>1 <b>A. You can issue one subpoena, you can 2 show up, and you can give 7 hours, I think it's 3 one day, and then in order to issue a second 4 subpoena, you need to get approval from the judge 5 of the case wherever that case is.</b> 6 Q. Okay. Where did you learn that? 7 <b>A. Cornell Law dot com.</b> 8 Q. I'll take that one back. 9 <b>A. It's the one that I use the most.</b> 10 Q. Okay. 11 THE WITNESS: Do you mind, I need to 12 take some medication? 13 MS. COOPER: Sure. Do you want to 14 take a break? We have a 5-minute break and a 15 15-minute break. 16 THE WITNESS: What time is it? 17 MS. COOPER: 2:30. Do you want to do 18 the 15-minute now? 19 THE WITNESS: Sure. 20 MS. COOPER: We'll go off the record. 21 (Brief recess.) 22 BY MS. COOPER: 23 Q. So at some point during this process, 24 we had a call with Judge Bowman on August 14th, 25 2018. It was a conference call. I don't believe</p>	124	<p>1 been filed, she did say that, and she was not 2 going to rule on them until a later date. But at 3 that time, you also decided to issue a different 4 type of subpoena, a second subpoena, with 5 different requirements. 6 Q. Okay. So was there any conversation 7 on that call or any discussion during that call 8 about a subpoena requesting documents? 9 <b>A. You stated that you were going to 10 create a second subpoena and add additional 11 requirements for documents.</b> 12 Q. Okay. So I'm going to show you what 13 has been marked as Exhibit 6. 14 (Thereupon, Kelly Exhibit 6, a 1-page 15 letter dated 8/14/18 to Julie Kelly from Gillian 16 Cooper, with attachment, was marked for purposes 17 of identification.) 18 BY MS. COOPER: 19 Q. And what is this document? 20 <b>A. This is your second subpoena.</b> 21 Q. Okay. 22 <b>A. Actually, probably your first to me 23 maybe. My second subpoena for the Steven Barger 24 case.</b> 25 Q. Right. But it's the first one that I</p>

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32 (125 to 128)

<p style="text-align: right;">125</p> <p>1 signed?</p> <p>2 <b>A. Sure.</b></p> <p>3 Q. Okay. And what is the date on the</p> <p>4 subpoena?</p> <p>5 <b>A. The 31st of August.</b></p> <p>6 Q. Oh, to --</p> <p>7 <b>A. I'm sorry. It is dated August 14th.</b></p> <p>8 <b>I don't think I got it until August 19th or</b></p> <p>9 <b>something. I wrote down the date I received it in</b></p> <p>10 <b>the mail.</b></p> <p>11 Q. Okay. Because you agreed also on</p> <p>12 that call that you would accept service via</p> <p>13 regular mail?</p> <p>14 <b>A. Right.</b></p> <p>15 Q. Did you receive an electronic copy of</p> <p>16 the subpoena?</p> <p>17 <b>A. I'd have to look through my e-mail.</b></p> <p>18 Q. Okay. And so I know you brought some</p> <p>19 documents with you today. We have not reviewed</p> <p>20 them. We got copies made. We will review them</p> <p>21 before the end.</p> <p>22 <b>A. It's probably in there if you sent</b></p> <p>23 <b>it. I think I printed all of your e-mails.</b></p> <p>24 Q. So this was the subpoena that was</p> <p>25 issued for October 31st, 2018.</p>	<p style="text-align: right;">127</p> <p>1 Q. So you looked in the rules for the</p> <p>2 timeline?</p> <p>3 <b>A. I did. I have the Ohio Rules as well</b></p> <p>4 <b>as Magistrate Bowman's rules.</b></p> <p>5 Q. Okay. So I'm going to show you</p> <p>6 what's been marked as Exhibit 21. This is the</p> <p>7 request for order granting motion for sanctions.</p> <p>8 <b>A. Um-hmm.</b></p> <p>9 Q. And you write in here at the bottom</p> <p>10 of the first page: More than 14 days have passed</p> <p>11 since I filed my motion for sanctions and Your</p> <p>12 Honor issued the above minute entry. So before</p> <p>13 you filed this motion -- or did anybody assist you</p> <p>14 in drafting this motion?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Okay. Did anybody review this</p> <p>17 document?</p> <p>18 <b>A. Again, my husband could have</b></p> <p>19 <b>reviewed, edited it, I don't know.</b></p> <p>20 Q. Okay. You said you checked the rules</p> <p>21 for this 14-day requirement?</p> <p>22 <b>A. Um-hmm.</b></p> <p>23 Q. What rule was it?</p> <p>24 <b>A. I think for responding to a motion.</b></p> <p>25 <b>I don't know, but that's probably what it was.</b></p>
<p style="text-align: right;">126</p> <p>1 <b>A. Um-hmm.</b></p> <p>2 Q. Thank you. Okay. So on August 29th,</p> <p>3 2018, you filed a request for order granting</p> <p>4 motion for sanctions. Do you recall that filing?</p> <p>5 <b>A. I do.</b></p> <p>6 Q. Okay. So in -- well, why did you</p> <p>7 file this request?</p> <p>8 <b>A. To try to speed things along.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. Again, I did not review the docket.</b></p> <p>11 <b>I did not review these in the past couple of days.</b></p> <p>12 Q. That's fine.</p> <p>13 (Thereupon, Kelly Exhibit 21, a</p> <p>14 4-page, 2-sided Request for Order Granting Motion</p> <p>15 for Sanctions, was marked for purposes of</p> <p>16 identification.)</p> <p>17 BY MS. COOPER:</p> <p>18 Q. So you wanted to move things along.</p> <p>19 How long did defendants have to respond to your</p> <p>20 motion for sanctions?</p> <p>21 <b>A. 14 days.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. I'd have to refer to my --</b></p> <p>24 Q. Okay.</p> <p>25 <b>A. -- local rules. I'm not sure.</b></p>	<p style="text-align: right;">128</p> <p>1 Q. Okay. If you turn to the last page,</p> <p>2 page 7, the last page, at the top, can you read</p> <p>3 that, the first three lines?</p> <p>4 <b>A. On page 7?</b></p> <p>5 Q. Yes.</p> <p>6 <b>A. My children are confused and asking:</b></p> <p>7 <b>Momma, why won't these people leave you alone? We</b></p> <p>8 <b>already went downtown to see them and they were</b></p> <p>9 <b>not there. Why won't they leave us alone?</b></p> <p>10 Q. Is that a direct quote?</p> <p>11 <b>A. Almost.</b></p> <p>12 Q. Okay. So what have your children --</p> <p>13 what have you told your children about this?</p> <p>14 <b>A. I haven't told them much, but they're</b></p> <p>15 <b>wondering why Momma is always researching, having</b></p> <p>16 <b>to go downtown, file documents. Their summer</b></p> <p>17 <b>plans had been interrupted because I feel</b></p> <p>18 <b>threatened that someone is going to come knock on</b></p> <p>19 <b>my door, someone is going to bring someone to this</b></p> <p>20 <b>town for the second time because they know I feel</b></p> <p>21 <b>threatened by them.</b></p> <p>22 Q. What makes you feel threatened?</p> <p>23 <b>A. You read my OCRC. First of all, I</b></p> <p>24 <b>submit my things for my case and then all of a</b></p> <p>25 <b>sudden, Saul Ewing feels like they can just</b></p>

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33 (129 to 132)

129	<p>1 subpoena me with a fake FedEx guy, which I get a</p> <p>2 subpoena. The whole process I feel threatened by,</p> <p>3 and I guess that's not an excuse for anything,</p> <p>4 obviously, I showed up.</p> <p>5 Q. Okay.</p> <p>6 A. And then to hear that Mr. Eidelman</p> <p>7 can just lie about me in front of my past</p> <p>8 colleagues and then also -- or people I may have</p> <p>9 known at First Data --</p> <p>10 Q. Sorry, who --</p> <p>11 A. -- on the record.</p> <p>12 Q. Who was it that he --</p> <p>13 A. I don't know who was in the room.</p> <p>14 Q. Okay.</p> <p>15 A. And what I got from Mr. Shearer is</p> <p>16 blacked out, but I saw what Mr. Eidelman said</p> <p>17 about me.</p> <p>18 Q. Okay. All right.</p> <p>19 A. I mean, how would you feel if someone</p> <p>20 said that about you?</p> <p>21 Q. Okay. I'll take that back. Thank</p> <p>22 you. So the date that we agreed upon for your</p> <p>23 deposition was August 31st, 2018 at --</p> <p>24 A. It was.</p> <p>25 Q. -- at 12 noon?</p>	131
130	<p>1 A. Sorry. Um-hmm.</p> <p>2 Q. Tell me about that day.</p> <p>3 A. That day -- as you know from our</p> <p>4 conversation with Magistrate Bowman, I did not</p> <p>5 agree to the requirements for the second subpoena,</p> <p>6 first of all, and I told you that on the call. I</p> <p>7 did not have documents that would be of relevance,</p> <p>8 and I did not agree with that. I did try to get a</p> <p>9 recording of that call, but, apparently,</p> <p>10 Magistrate Bowman does not record her calls. So</p> <p>11 you knew that. So that morning, I filed -- I went</p> <p>12 downtown, I filed a protective order at the court.</p> <p>13 I think that's stamped 11:07, and this was one of</p> <p>14 the issues I had with the clerks where they were</p> <p>15 not filing timely, even if I waited there. So I</p> <p>16 know there was an issue with that getting through</p> <p>17 on PACER. At that point, I went and I got a</p> <p>18 coffee. I've got receipts if you need them.</p> <p>19 Q. Okay. I will make a request for</p> <p>20 those receipts.</p> <p>21 A. Sure. And you know where the</p> <p>22 courthouse is, you know where the PNC building is.</p> <p>23 I thought I saw Ms. Robin Ording. There's not</p> <p>24 many people that walk on the streets in</p> <p>25 Cincinnati.</p>	132

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34 (133 to 136)

<p style="text-align: right;">133</p> <p>1 MS. COOPER: Okay. Pause for just a</p> <p>2 second. We're not going to take a break.</p> <p>3 (Off the record.)</p> <p>4 BY MS. COOPER:</p> <p>5 Q. We can go back on. So the day of the</p> <p>6 31st, you file the motion a little after 11. Did</p> <p>7 you talk to anybody about the filing?</p> <p>8 <b>A. I did upload a copy of my stamped</b></p> <p>9 <b>page to the cloud.</b></p> <p>10 Q. But what do you mean?</p> <p>11 <b>A. I just save all of my documents in</b></p> <p>12 <b>the cloud.</b></p> <p>13 Q. How did you upload a copy of the</p> <p>14 document?</p> <p>15 <b>A. From my phone.</b></p> <p>16 Q. So you took a picture --</p> <p>17 <b>A. Um-hmm.</b></p> <p>18 Q. -- of the filing page, and you did</p> <p>19 what; how do you upload it?</p> <p>20 <b>A. I hit Save and it saves it to my</b></p> <p>21 <b>files.</b></p> <p>22 Q. Does anyone have access?</p> <p>23 <b>A. Yeah, I share, I share that with</b></p> <p>24 <b>quite a few people.</b></p> <p>25 Q. Okay. Your entire cloud or that</p>	<p style="text-align: right;">135</p> <p>1 Q. So before you filed the motion for</p> <p>2 protective order, did you tell anyone that you</p> <p>3 would be filing that document?</p> <p>4 <b>A. I can't remember.</b></p> <p>5 Q. Okay. So you filed it a little after</p> <p>6 11, you uploaded it to the cloud, and then did you</p> <p>7 have any phone conversations with anyone about it?</p> <p>8 <b>A. I can't remember.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. I was nervous as it is. I don't</b></p> <p>11 <b>know.</b></p> <p>12 Q. Okay. And so you testified that you</p> <p>13 believe you saw Ms. Ording on the street, and then</p> <p>14 you went into the PNC building and saw her name on</p> <p>15 the sign-in sheet?</p> <p>16 <b>A. Um-hmm.</b></p> <p>17 Q. Did anybody tell you that Ms. Ording</p> <p>18 was at the deposition?</p> <p>19 <b>A. No. I knew she was there, no one had</b></p> <p>20 <b>to tell me.</b></p> <p>21 Q. You knew she was there how?</p> <p>22 <b>A. I just told you.</b></p> <p>23 Q. Okay. All right. But you would have</p> <p>24 filed the protective order or the motion for</p> <p>25 protective order regardless of whether Ms. Ording</p>
<p style="text-align: right;">134</p> <p>1 document specifically?</p> <p>2 <b>A. I have separate folders that I share</b></p> <p>3 <b>with separate people for certain things, and in</b></p> <p>4 <b>this instance, this filing was in regards to my</b></p> <p>5 <b>OCRC case, so it went to my OCRC.</b></p> <p>6 Q. The motion for protective order that</p> <p>7 you filed in this miscellaneous matter --</p> <p>8 <b>A. Is evidence for my OCRC case.</b></p> <p>9 Q. Okay. Why do you believe that?</p> <p>10 <b>A. Because I have felt threatened, I</b></p> <p>11 <b>have been harassed, and all of this is something I</b></p> <p>12 <b>cannot talk about today.</b></p> <p>13 Q. Okay. Why can't you talk about that?</p> <p>14 <b>A. Because it is in regards to my OCRC</b></p> <p>15 <b>claim.</b></p> <p>16 Q. Okay. But why --</p> <p>17 <b>A. We're not here to talk about my OCRC</b></p> <p>18 <b>claim.</b></p> <p>19 Q. We're not, but we're here to talk</p> <p>20 about the 31st, in part.</p> <p>21 <b>A. Um-hmm.</b></p> <p>22 Q. So we are going to talk about what</p> <p>23 happened on the 31st and what you discussed about</p> <p>24 that deposition that day.</p> <p>25 <b>A. Okay.</b></p>	<p style="text-align: right;">136</p> <p>1 was there?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay.</p> <p>4 <b>A. It's like I told you, the request for</b></p> <p>5 <b>documents was invasive and burdensome to me as</b></p> <p>6 <b>well as threatening as this whole process.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. And you were aware of that.</b></p> <p>9 Q. Okay. And so you waited until the</p> <p>10 morning of the deposition to file the motion</p> <p>11 for --</p> <p>12 <b>A. Look, I don't have electronic filing</b></p> <p>13 <b>rights. I have responsibilities. I have a</b></p> <p>14 <b>family. I can't just, poof, file something. I'm</b></p> <p>15 <b>not an attorney. It takes me awhile to write this</b></p> <p>16 <b>stuff.</b></p> <p>17 Q. Okay. So I want to talk a little bit</p> <p>18 about -- well, you filed a supplement on September</p> <p>19 4th, Document No. 13, but I want to start talking</p> <p>20 about some of the content in here. You talk about</p> <p>21 you were employed by First Data for 20 years. My</p> <p>22 final two supervisors were Plaintiff Barger and</p> <p>23 then Ms. Ording. So tell me a little bit about</p> <p>24 your relationship with Mr. Barger when he was your</p> <p>25 supervisor.</p>

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35 (137 to 140)

137	<p>1       <b>A. So I first started working with</b></p> <p>2 <b>Mr. Barger, I would say, maybe spring, early</b></p> <p>3 <b>summer of 2014. He was a consultant. He came</b></p> <p>4 <b>on -- Joe Plumeri, who was I believe on the board</b></p> <p>5 <b>at First Data, brought him on to really</b></p> <p>6 <b>transform -- basically, keep our sales force from</b></p> <p>7 <b>becoming just a new rate in a terminal to doing</b></p> <p>8 <b>really business services and doing more</b></p> <p>9 <b>consultative sale. I assisted him. Bryan Fricke,</b></p> <p>10 <b>I don't know if you've heard that name, he was my</b></p> <p>11 <b>supervisor at the time, and he reported to Joe</b></p> <p>12 <b>Plumeri, and Steve was a consultant. So we all</b></p> <p>13 <b>worked together on certain road shows, writing</b></p> <p>14 <b>curriculum, writing programs, doing measurement on</b></p> <p>15 <b>the effectiveness of programs, so on and so forth.</b></p> <p>16       <b>My first meeting with Barger was -- I</b></p> <p>17 <b>mean, he was a man of great charisma. Even over</b></p> <p>18 <b>the phone, he would just -- you didn't type or</b></p> <p>19 <b>multi-task, you listened to every word that he had</b></p> <p>20 <b>to say. He was an incredible speaker, very</b></p> <p>21 <b>inspirational, and you respected him immediately.</b></p> <p>22 <b>When Mr. Fricke left the business, they did not</b></p> <p>23 <b>fill his position immediately. They had</b></p> <p>24 <b>Mr. Barger step in.</b></p> <p>25       <b>Q. Okay.</b></p>
138	<p>1       <b>A. And --</b></p> <p>2       <b>Q. When was that?</b></p> <p>3       <b>A. I want to say maybe late summer 2014,</b></p> <p>4 <b>maybe in the summer. I don't have exact dates.</b></p> <p>5       <b>Q. So what was your title at this time?</b></p> <p>6       <b>A. I was a manager of instructional</b></p> <p>7 <b>design. It probably said manager of training.</b></p> <p>8       <b>Q. Manager of training?</b></p> <p>9       <b>A. Um-hmm.</b></p> <p>10       <b>Q. Okay. How long did you have -- did</b></p> <p>11 <b>you hold that title?</b></p> <p>12       <b>A. Oh, gosh, I don't know.</b></p> <p>13       <b>Q. Okay. So it wasn't -- so when did</b></p> <p>14 <b>you -- was your title always manager of training?</b></p> <p>15       <b>A. For a long time.</b></p> <p>16       <b>Q. Okay. Did it ever change after</b></p> <p>17 <b>summer of 2014?</b></p> <p>18       <b>A. It did.</b></p> <p>19       <b>Q. When?</b></p> <p>20       <b>A. This was post Mr. Barger.</b></p> <p>21       <b>Q. Okay. So when did it change?</b></p> <p>22       <b>A. Under Ms. Robin Ording.</b></p> <p>23       <b>Q. Okay. What did it change to?</b></p> <p>24       <b>A. It changed to director of training.</b></p> <p>25       <b>Q. So was that a promotion?</b></p>
139	<p>1       <b>A. I believe so.</b></p> <p>2       <b>Q. Okay. Did you receive an increase in</b></p> <p>3 <b>salary or a bonus?</b></p> <p>4       <b>A. I received additional</b></p> <p>5 <b>responsibilities from a VP who was going to be</b></p> <p>6 <b>working I think a third of the time or something</b></p> <p>7 <b>to start her own brewery. I'm not sure of the</b></p> <p>8 <b>details, but I was taking on her responsibilities.</b></p> <p>9 <b>So I was given the director title along with a</b></p> <p>10 <b>base salary increase, and I think because it moved</b></p> <p>11 <b>me up a level, I was eligible for a different type</b></p> <p>12 <b>of a bonus.</b></p> <p>13       <b>Q. Okay. Did you receive an additional</b></p> <p>14 <b>bonus?</b></p> <p>15       <b>A. I did not.</b></p> <p>16       <b>Q. Okay. So when Mr. Barger oversaw the</b></p> <p>17 <b>group, how often did you see him in person?</b></p> <p>18       <b>A. Maybe once or twice a year, not</b></p> <p>19 <b>often. I did not work in the same office as he</b></p> <p>20 <b>did.</b></p> <p>21       <b>Q. Okay. So how did you usually</b></p> <p>22 <b>communicate?</b></p> <p>23       <b>A. Videoconference. We had a couple of</b></p> <p>24 <b>different platforms that we utilized, the phone</b></p> <p>25 <b>almost a couple of times a day at first. He was</b></p>
140	<p>1 <b>learning about the business. He was learning</b></p> <p>2 <b>about, you know, how I worked, my team.</b></p> <p>3       <b>Q. And what was he learning about?</b></p> <p>4       <b>A. What we did.</b></p> <p>5       <b>Q. Okay.</b></p> <p>6       <b>A. How First Data worked, how we could</b></p> <p>7 <b>all work together. Bryan Fricke left abruptly,</b></p> <p>8 <b>so, you know, he had to come in and learn. It was</b></p> <p>9 <b>quite difficult when someone new takes on.</b></p> <p>10       <b>Q. So I guess tell me a little bit about</b></p> <p>11 <b>your day-to-day type work when Mr. Barger took</b></p> <p>12 <b>over as your head.</b></p> <p>13       <b>A. So at the time, gosh, we would have</b></p> <p>14 <b>been starting to write a completely new curriculum</b></p> <p>15 <b>for a new hire program for our sales. They</b></p> <p>16 <b>changed the name. It was the time we were</b></p> <p>17 <b>changing them from account executives to business</b></p> <p>18 <b>consultants, so that was rewriting an entire</b></p> <p>19 <b>program from scratch. So we would work on that.</b></p> <p>20       <b>We also had various things with the</b></p> <p>21 <b>corporate university. We had gone through --</b></p> <p>22 <b>prior to Mr. Fricke coming on board, we had gone</b></p> <p>23 <b>through a huge shift when Frank Bisignano came on</b></p> <p>24 <b>to the company. We had had an amazing online</b></p> <p>25 <b>university called Mind Spring and there was a lot</b></p>

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141	<p>1 of pieces that my team was responsible for that we</p> <p>2 had to pick up and with a lot of people exiting</p> <p>3 the company. So there were various tasks. But</p> <p>4 mainly, my group was responsible for instructional</p> <p>5 design and development as well as measurement for</p> <p>6 the sales organization training.</p> <p>7 Q. What does that mean, measurement?</p> <p>8 A. You measure the effectiveness of your</p> <p>9 practice. So basically, you do a training</p> <p>10 program, you want to see how that impacted, you</p> <p>11 know, your learners, not just immediately. You</p> <p>12 know, everybody can do a sheet, yeah, the food was</p> <p>13 great, you know, but we went further with that, so</p> <p>14 really measuring, you know, what did they</p> <p>15 comprehend, and then beyond that, how did they</p> <p>16 change their behaviors on the job.</p> <p>17 Q. Okay. And so was this a new process</p> <p>18 that was implemented when Mr. Barger took over?</p> <p>19 A. No, no. This is common adult</p> <p>20 learning. These are common practices.</p> <p>21 Q. It's a common practice in --</p> <p>22 A. Yeah. What was new when Mr. Barger</p> <p>23 took over was Joe Plumeri's vision, as well as him</p> <p>24 I'm sure, was to make it the First Data way, not</p> <p>25 just this was our process. It was consultative</p>	143	<p>1 individually. He knew everybody's kids' names,</p> <p>2 what sports they did, their birthdays. I mean, he</p> <p>3 just had a fantastic memory. And he really showed</p> <p>4 concern, genuine concern, for people and that was</p> <p>5 kind of his thing, genuine concern, and he pushed</p> <p>6 that out to the entire corporation. And, you</p> <p>7 know, while I didn't have -- you know, I wasn't</p> <p>8 there on site with him, you know, he was always a</p> <p>9 very supportive manager. You know, you could tell</p> <p>10 he had tons of experience.</p> <p>11 Q. Okay. So it's clear that you believe</p> <p>12 that he really cared about his people and took</p> <p>13 time to get to know them. Tell me a little bit</p> <p>14 about his management of the group. Did he -- was</p> <p>15 he a micro manager, did he delegate, how did he</p> <p>16 manage?</p> <p>17 A. So I think at first, he was micro</p> <p>18 manager a little bit. And, you know, it's quite</p> <p>19 common when people take over organizations or</p> <p>20 different groups, they want to understand why</p> <p>21 you're doing what you're doing, and they might</p> <p>22 have ideas to, you know, make that a better</p> <p>23 process or change it or move things around. So</p> <p>24 you'll see in my documents, I do get frustrated</p> <p>25 with him because he wanted to know what I was</p>
142	<p>1 selling, but the First Data way, on how to sell</p> <p>2 and really getting that out to all of our business</p> <p>3 consultants. So it was a transformation.</p> <p>4 Q. Okay. How many managers were I guess</p> <p>5 under Barger, like same level as you, when</p> <p>6 Mr. Barger took over?</p> <p>7 A. Oh, maybe one or two.</p> <p>8 Q. Okay.</p> <p>9 A. I can't really remember, maybe one or</p> <p>10 two.</p> <p>11 Q. Do you remember who they were?</p> <p>12 A. I think David Short was one, and</p> <p>13 Michele Mohan may be another.</p> <p>14 Q. Okay. When Mr. Barger took over,</p> <p>15 what was the head count of the group?</p> <p>16 A. I wouldn't -- I wouldn't remember</p> <p>17 that.</p> <p>18 Q. Okay.</p> <p>19 A. I mean, gosh, that was, what, four</p> <p>20 years ago.</p> <p>21 Q. Yeah. Okay. All right. Well, so</p> <p>22 Mr. Barger takes over. How did the group change</p> <p>23 under his leadership?</p> <p>24 A. It was amazing. I mean, he took the</p> <p>25 time to get to know people. He met with them</p>	144	<p>1 doing on a Sunday when I was cooking dinner and he</p> <p>2 wanted an update on something. So you know, at</p> <p>3 first, you know, it's kind of -- you know, he was</p> <p>4 a little micro manager, but then he -- once it's</p> <p>5 almost like he got to trust you, then, if you did</p> <p>6 have situations that you needed his help on, he</p> <p>7 wouldn't want to solve those for you, he would</p> <p>8 want to talk you through you coming up with your</p> <p>9 own solution, and I learned quite a bit from him</p> <p>10 in some of those processes.</p> <p>11 He gave me an awesome project. It</p> <p>12 was -- it had a code name, I won't mention it, but</p> <p>13 it did turn out to be the Apple Pay when First</p> <p>14 Data had that roll out, and he allowed me to be a</p> <p>15 part of that huge project and that was just an</p> <p>16 incredible experience for me.</p> <p>17 Q. What was your role in that project?</p> <p>18 A. I was responsible for learning the</p> <p>19 product and learning all of the training and</p> <p>20 curriculum.</p> <p>21 Q. About what time was that?</p> <p>22 A. I want to say 2015.</p> <p>23 Q. Okay.</p> <p>24 A. Yeah, but I'm not sure.</p> <p>25 Q. Okay. What did some of your</p>

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<p style="text-align: right;">145</p> <p>1 colleagues think about Mr. Barger's leadership;</p> <p>2 did you ever have any conversations with them?</p> <p>3 MR. SHEARER: Objection. You can</p> <p>4 answer.</p> <p>5 THE WITNESS: Yeah, I can't -- I</p> <p>6 can't speculate what other people might think or</p> <p>7 say.</p> <p>8 BY MS. COOPER:</p> <p>9 Q. That's fine. But did you have any</p> <p>10 conversations with your colleagues about</p> <p>11 Mr. Barger?</p> <p>12 A. I'm sure we did, yeah.</p> <p>13 Q. Okay. Did your colleagues tell you</p> <p>14 that they liked the group under his leadership?</p> <p>15 A. Again, I don't want to, you know,</p> <p>16 speculate what or misinterpret what they may have</p> <p>17 or may not have said. I really don't remember.</p> <p>18 Q. Okay. But you did have conversations</p> <p>19 about his leadership?</p> <p>20 A. I mean, it was very positive, you</p> <p>21 know, of the team.</p> <p>22 Q. Okay. Did anyone ever complain to</p> <p>23 you about his leadership?</p> <p>24 A. Not that I can think of.</p> <p>25 Q. Okay. So you don't recall any</p>	<p style="text-align: right;">147</p> <p>1 there was, but let me see if I can come up with an</p> <p>2 example. Maybe Matthew McDonald.</p> <p>3 Q. Okay. And when was -- when were</p> <p>4 those conversations?</p> <p>5 A. Probably 2015.</p> <p>6 Q. What were some of the things that you</p> <p>7 remember about the conversation?</p> <p>8 A. He was -- he challenged him,</p> <p>9 challenged. Matthew reported to me but had a lot</p> <p>10 of guidance from Steve, and he really appreciated</p> <p>11 that.</p> <p>12 Q. Did any employee ever complain to you</p> <p>13 about Mr. Barger?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Who complained to you?</p> <p>16 A. It was Nick Mantia.</p> <p>17 Q. Okay. What did he complain about?</p> <p>18 A. Nick had some problems, and I think</p> <p>19 he was just really looking for Steve to be there</p> <p>20 every day for him and not push him and challenge</p> <p>21 him. He just wanted to be there and have a task</p> <p>22 list of 15 things to do a day and be done, not to</p> <p>23 have to think and not have to -- again, Nick may</p> <p>24 have been under the influence of some certain</p> <p>25 things, but I -- I don't know.</p>
<p style="text-align: right;">146</p> <p>1 employee complaining to you about Mr. Barger's</p> <p>2 running of the group?</p> <p>3 A. Maybe he was hard on them.</p> <p>4 Q. Okay.</p> <p>5 A. Again, I don't -- I don't -- I don't</p> <p>6 really remember.</p> <p>7 Q. Okay.</p> <p>8 A. I mean, they may have had similar</p> <p>9 experiences. Again, I don't want to speculate</p> <p>10 what anyone else went through.</p> <p>11 Q. What do you mean, similar</p> <p>12 experiences?</p> <p>13 A. Like how he was hard on me at first</p> <p>14 and challenged me.</p> <p>15 Q. Okay. So are there any particular</p> <p>16 employees that you're thinking of when you talk</p> <p>17 about -- you know, I understand that you don't</p> <p>18 want to speculate what they thought about him, but</p> <p>19 it seems that you've had some conversations</p> <p>20 about --</p> <p>21 A. Oh, no. I'm just -- I don't know.</p> <p>22 Q. Okay. So you can't recall a</p> <p>23 conversation with any colleagues about</p> <p>24 Mr. Barger's leadership?</p> <p>25 A. Let me think for a second. I'm sure</p>	<p style="text-align: right;">148</p> <p>1 Q. Okay. You mentioned earlier about</p> <p>2 Nick Mantia, that there was some sort of issue</p> <p>3 with Rhonda Johnson. What was that issue?</p> <p>4 A. I don't know if it was an issue. I</p> <p>5 don't understand their relationship.</p> <p>6 Q. Okay. Just what do you mean by that,</p> <p>7 what is their relationship?</p> <p>8 A. I just remember that he had calls</p> <p>9 with her. He was always in her office, and I</p> <p>10 think it's when he was sick. I'm not sure.</p> <p>11 Q. Okay. All right. So Nick Mantia</p> <p>12 complained to you at some point about Mr. Barger?</p> <p>13 MR. SHEARER: Objection.</p> <p>14 BY MS. COOPER:</p> <p>15 Q. Or you had conversations with</p> <p>16 Mr. Mantia about --</p> <p>17 A. Again, I don't want to speculate what</p> <p>18 he was going through. I'm sure it's --</p> <p>19 Q. Okay.</p> <p>20 A. It's none of my business.</p> <p>21 Q. Any other employees complain to you?</p> <p>22 A. Not that I remember.</p> <p>23 Q. Okay. There's one thing that you put</p> <p>24 into a filing on September 13th when you filed --</p> <p>25 it's Docket No. 17, it's a reply in support of</p>

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149	<p>1 motion for sanctions, and you asked for</p> <p>2 terminating sanctions. What are terminating</p> <p>3 sanctions?</p> <p>4 <b>A. I believe they're basically to</b></p> <p>5 <b>eliminate someone's rights to do something.</b></p> <p>6 Q. So what rights were you seeking to be</p> <p>7 eliminated?</p> <p>8 <b>A. I can't remember. I'd have to read</b></p> <p>9 <b>the context. It may have been something I saw on</b></p> <p>10 <b>Google Cornell. I don't know.</b></p> <p>11 Q. Okay.</p> <p>12 (Thereupon, Kelly Exhibit 7, a</p> <p>13 2-page, 2-sided Order, was marked for purposes of</p> <p>14 identification.)</p> <p>15 BY MS. COOPER:</p> <p>16 Q. I'm going to show you what has been</p> <p>17 marked as Exhibit 7, which is another lesson to me</p> <p>18 that I shouldn't pre-mark exhibits at the</p> <p>19 beginning of the deposition because it changes</p> <p>20 things around a little bit. Okay.</p> <p>21 So do you recognize this document?</p> <p>22 <b>A. I do.</b></p> <p>23 Q. This is Docket No. 25?</p> <p>24 <b>A. Um-hmm.</b></p> <p>25 Q. It is an order dated September 19,</p>	151	<p>1 says: Defendant's motion to compel is granted,</p> <p>2 Ms. Kelly must appear for deposition on October</p> <p>3 15, 2018 at 12 noon. Ms. Kelly must bring any and</p> <p>4 all documents in her possession as requested in</p> <p>5 the subpoena previously issued for the August 31,</p> <p>6 2018 deposition. And then the judge goes through</p> <p>7 some more specifics about the breaks, et cetera.</p> <p>8 Do you recall receiving this order?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Okay. Did you talk about this order</p> <p>11 with anyone?</p> <p>12 <b>A. I'm sure my husband and I went over</b></p> <p>13 <b>it.</b></p> <p>14 Q. Okay. Was there any part of this</p> <p>15 order that you found to be confusing?</p> <p>16 <b>A. Not confusing, but it does not feel</b></p> <p>17 <b>like it's complete. It does not state why I did</b></p> <p>18 <b>not show up for the August 31st, so it makes it</b></p> <p>19 <b>sound like I just decided not to show up, when</b></p> <p>20 <b>there were contributing factors to why I did not</b></p> <p>21 <b>show up.</b></p> <p>22 Q. Okay. Which were what?</p> <p>23 <b>A. For you bringing people to</b></p> <p>24 <b>Cincinnati.</b></p> <p>25 Q. Okay. So the judge issues this</p>
150	<p>1 2018. Okay. So the court writes that the matter</p> <p>2 is currently before the court based upon the</p> <p>3 filing of a motion to compel the deposition of</p> <p>4 you. The judge goes through a little bit of the</p> <p>5 procedural history. She writes: The matter was</p> <p>6 previously before the court for a telephone status</p> <p>7 conference to discuss the above-mentioned motions.</p> <p>8 At that time, Ms. Kelly agreed to appear for a</p> <p>9 deposition on August 31st, 2018, and the Court</p> <p>10 requested further briefing on the motion for</p> <p>11 sanctions. Ms. Kelly then filed a motion for an</p> <p>12 order on her motion for sanctions as well as a</p> <p>13 motion for protective order. Ms. Kelly did not</p> <p>14 appear for her deposition on August 31, 2018,</p> <p>15 which led the Court to schedule another conference</p> <p>16 for September 18th.</p> <p>17 Okay. I'm going to skip through a</p> <p>18 couple of lines. And then on page 2, the first</p> <p>19 full paragraph, it says: Ms. Kelly's motion for</p> <p>20 protective order is also denied, and Ms. Kelly is</p> <p>21 ordered to bring with her to the deposition the</p> <p>22 documents in her possession that are requested in</p> <p>23 the subpoena for the August 31, 2018 deposition</p> <p>24 that was served on August 20th, 2018.</p> <p>25 And then the bottom on page 2, it</p>	152	<p>1 order. Was there anything else that you thought</p> <p>2 needed -- that was confusing or you did not</p> <p>3 understand?</p> <p>4 <b>A. Yes. Because the motion to compel</b></p> <p>5 <b>was originally filed for a subpoena that I showed</b></p> <p>6 <b>up for, so I don't know -- I don't understand how</b></p> <p>7 <b>a second subpoena could be issued. It's very</b></p> <p>8 <b>confusing. The first one is still out there.</b></p> <p>9 Q. Okay. But then in August, we</p> <p>10 discussed a new subpoena or a subpoena for August</p> <p>11 31st that would command documents?</p> <p>12 <b>A. Which I objected to.</b></p> <p>13 Q. Right, you objected to bringing</p> <p>14 documents, and then you didn't appear for the</p> <p>15 deposition. But I'm asking specifically what part</p> <p>16 of this order did you find confusing?</p> <p>17 MR. SHEARER: Objection.</p> <p>18 THE WITNESS: Objection, yeah. I</p> <p>19 just didn't agree with it and that's why I filed</p> <p>20 what I did.</p> <p>21 BY MS. COOPER:</p> <p>22 Q. Got it. Okay. So what do you do</p> <p>23 when you don't agree with an order, what is the</p> <p>24 procedural step, when there's an order issued?</p> <p>25 <b>A. I would look it up online, and I'm</b></p>

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<p style="text-align: right;">153</p> <p>1 going to file my reasoning for why I do not agree</p> <p>2 with what the judge ordered, and it goes up to the</p> <p>3 next level.</p> <p>4 Q. Which is what?</p> <p>5 A. To the judge.</p> <p>6 Q. But to which judge?</p> <p>7 A. In this case.</p> <p>8 Q. Because this is -- I'm sorry.</p> <p>9 A. It's Magistrate Bowman, and it's</p> <p>10 going to go to the judge on the case to review,</p> <p>11 which is Susan Dlott.</p> <p>12 Q. Okay. Do you understand that Judge</p> <p>13 Bowman is a magistrate judge, she is --</p> <p>14 A. I do.</p> <p>15 Q. She is a judge?</p> <p>16 A. Um-hmm.</p> <p>17 Q. Okay. So what is that process called</p> <p>18 when you want to take it --</p> <p>19 A. An appeal.</p> <p>20 Q. An appeal. Okay. How did you learn</p> <p>21 about the process of how to, as you put it, appeal</p> <p>22 the magistrate judge's order?</p> <p>23 A. My crash course in Law 101 this</p> <p>24 summer.</p> <p>25 Q. Okay. Did you talk to anybody about</p>	<p style="text-align: right;">155</p> <p>1 have to take some more -- I might have to take</p> <p>2 something.</p> <p>3 Q. Do you need to take a break? We have</p> <p>4 one more 5-minute break; if you want to take it</p> <p>5 now, we can do it now.</p> <p>6 A. No, let's keep going.</p> <p>7 Q. Okay. So in the subpoena that was</p> <p>8 served on August 14th, 2018 that the judge ordered</p> <p>9 you comply with, we requested documents?</p> <p>10 A. Um-hmm.</p> <p>11 Q. On October 2nd, 2018, you e-mailed</p> <p>12 Gary Eidelman and myself and objected to the</p> <p>13 document production?</p> <p>14 A. Um-hmm.</p> <p>15 Q. How did you know about objections to</p> <p>16 document requests?</p> <p>17 A. Well, I don't get to talk to you</p> <p>18 about things, so I figured I should e-mail them.</p> <p>19 Q. What do you mean?</p> <p>20 A. I can't pick up the phone and say, I</p> <p>21 object to this, I object to that, so I --</p> <p>22 Q. Why can't you pick up the phone and</p> <p>23 call us?</p> <p>24 A. Because I'm representing myself in</p> <p>25 this and everything seems to be more formal. I</p>
<p style="text-align: right;">154</p> <p>1 that process?</p> <p>2 A. I don't know.</p> <p>3 MR. SHEARER: Objection. To the</p> <p>4 extent that you spoke to counsel and received</p> <p>5 advice, then, you shouldn't answer that. Proceed.</p> <p>6 THE WITNESS: I am pro se for this</p> <p>7 whole case that we're talking about today, which I</p> <p>8 did not know we were talking about, that was very</p> <p>9 misleading in the first place, and I'm trying to</p> <p>10 represent myself. If I talk to other people about</p> <p>11 it, I'm allowed to do that.</p> <p>12 BY MS. COOPER:</p> <p>13 Q. Right, you are allowed to do that,</p> <p>14 and I am allowed to ask you about that. I'm not</p> <p>15 saying that you're not allowed to talk to anybody</p> <p>16 about it, but I am allowed to ask you about it.</p> <p>17 A. That's fine.</p> <p>18 Q. That's what I'm doing, I'm asking you</p> <p>19 about who you spoke to about this order.</p> <p>20 A. I spoke to I don't know how many</p> <p>21 people. I don't know who they were. I can't</p> <p>22 remember this whole -- especially this stuff</p> <p>23 because it's been such a blur over what you've</p> <p>24 done to me this whole summer. I mean, I just --</p> <p>25 I'm getting really hot right now too. I might</p>	<p style="text-align: right;">156</p> <p>1 don't know the process.</p> <p>2 Q. Okay. But did anyone tell you that</p> <p>3 you couldn't pick up the phone and call us?</p> <p>4 A. No.</p> <p>5 Q. Okay. Did you think about calling us</p> <p>6 about --</p> <p>7 A. No, no, I did not.</p> <p>8 Q. Okay. So you sent us an e-mail and</p> <p>9 you put objections in that e-mail?</p> <p>10 A. (Nodding head.)</p> <p>11 Q. Where did you learn about document</p> <p>12 objections or objections to documents?</p> <p>13 A. Online, maybe someone I spoke with, I</p> <p>14 don't know. I can't remember.</p> <p>15 Q. Okay. And what do you know about</p> <p>16 objections to document requests?</p> <p>17 A. I had objections because the</p> <p>18 documents -- most of the documents that I have, I</p> <p>19 was able to find some, are in relation to my OCRC</p> <p>20 case.</p> <p>21 Q. So I do want to --</p> <p>22 A. So let me ask you this, how many of</p> <p>23 my other colleagues have you subpoenaed, deposed,</p> <p>24 and asked for documents, what are their names?</p> <p>25 Q. Okay. I want to make --</p>

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157	<p>1 <b>A. I don't think it happened.</b></p> <p>2 Q. So have you talked to other people</p> <p>3 about --</p> <p>4 <b>A. I haven't. That's why I'm asking</b></p> <p>5 <b>you, who else was deposed?</b></p> <p>6 Q. Okay. But you said you don't think</p> <p>7 that happened, so --</p> <p>8 <b>A. I don't. You won't answer me.</b></p> <p>9 Q. It's not my deposition. I do want to</p> <p>10 make very clear that the Attachment A to the</p> <p>11 subpoena, the first --</p> <p>12 <b>A. Which subpoena are we talking about?</b></p> <p>13 Q. The one on August 14th, Exhibit 6,</p> <p>14 says: You are not being asked by way of this</p> <p>15 subpoena or otherwise to produce any documents or</p> <p>16 communications, e-mail, electronically stored or</p> <p>17 otherwise, relating to the charge of</p> <p>18 discrimination that you filed with the Ohio Civil</p> <p>19 Rights Commission, Charge No.</p> <p>20 DAYB-6-27240-0517-2018, including, but not limited</p> <p>21 to, any communications you have had with the law</p> <p>22 offices of Shawn Shearer, Shawn Shearer, Esq.,</p> <p>23 and/or Brenda Barger regarding the charge of</p> <p>24 discrimination. So it's pretty clear that we are</p> <p>25 asking for documents, but we are making</p>	159	<p>1 (Thereupon, Kelly Exhibit 22, a</p> <p>2 2-page, 2-sided e-mail dated 10/2/18 to Gary</p> <p>3 Eidelman from Julie Kelly, was marked for purposes</p> <p>4 of identification.)</p> <p>5 MS. COOPER: I also want to point out</p> <p>6 for the record that Exhibit 6, I think when it</p> <p>7 printed, it might be missing a page. I will</p> <p>8 confirm that on the next break. I just wanted to</p> <p>9 make a note of that. I think it might be missing</p> <p>10 a page of the subpoena.</p> <p>11 BY MS. COOPER:</p> <p>12 Q. Okay. So do you recognize this</p> <p>13 document?</p> <p>14 <b>A. I do.</b></p> <p>15 Q. What is this document?</p> <p>16 <b>A. And this is the e-mail I sent to you</b></p> <p>17 <b>with my document production objections --</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. -- on Tuesday, October 2nd.</b></p> <p>20 Q. Okay. Did you draft this e-mail?</p> <p>21 <b>A. I did.</b></p> <p>22 Q. Did anybody assist you in drafting</p> <p>23 this e-mail?</p> <p>24 <b>A. I don't believe so, but I don't</b></p> <p>25 <b>remember.</b></p>
158	<p>1 specifically clear that it's not related to that</p> <p>2 charge.</p> <p>3 So I'm going to ask you again, why</p> <p>4 did you feel that you needed to object to the</p> <p>5 document request?</p> <p>6 <b>A. Because it's burdensome for me to</b></p> <p>7 <b>have to sort through my e-mail. You gave me how</b></p> <p>8 <b>many categories on that document?</b></p> <p>9 Q. Okay. So let me read them, then.</p> <p>10 <b>A. And if I can just add to that, First</b></p> <p>11 <b>Data has a copy of everything I've ever done for</b></p> <p>12 <b>the past 20 years, and I would assume that would</b></p> <p>13 <b>be what is relevant to the Barger case, which</b></p> <p>14 <b>we've asked, what, one question about so far.</b></p> <p>15 Q. Okay. All right. But the objections</p> <p>16 that you put in the e-mail dated October 2nd,</p> <p>17 2018, where did you find those?</p> <p>18 <b>A. Probably the Internet.</b></p> <p>19 Q. Okay. Did you copy and paste them</p> <p>20 out of a document?</p> <p>21 <b>A. Probably.</b></p> <p>22 Q. Did somebody send them to you?</p> <p>23 <b>A. No. I think I got them online. I</b></p> <p>24 <b>can't remember.</b></p> <p>25 Q. Okay.</p>	160	<p>1 Q. Okay.</p> <p>2 <b>A. May have had some editing.</b></p> <p>3 Q. By who?</p> <p>4 <b>A. Probably my husband.</b></p> <p>5 Q. Okay. In the second paragraph, you</p> <p>6 write: My understanding is that these are fairly</p> <p>7 standard general objections to document production</p> <p>8 requests. How did you come to that belief?</p> <p>9 <b>A. On the Internet, I'm pretty sure.</b></p> <p>10 Q. Okay.</p> <p>11 <b>A. My crash course 101.</b></p> <p>12 Q. Thank you. So at some point on</p> <p>13 October 2nd, you filed a Rule 72(a) motion. What</p> <p>14 is a Rule 72(a) motion?</p> <p>15 <b>A. This is my asking Judge Dlott, the</b></p> <p>16 <b>higher-up judge, to take a look at my reasoning</b></p> <p>17 <b>for objecting to Judge Magistrate Bowman's order.</b></p> <p>18 Q. Okay. And what was your reasoning</p> <p>19 for objecting to Judge Bowman's order?</p> <p>20 <b>A. Basically, invalid subpoena.</b></p> <p>21 Q. What about it was invalid?</p> <p>22 <b>A. Because I went to -- I showed up for</b></p> <p>23 <b>the first subpoena. Had I not shown up, you</b></p> <p>24 <b>probably would have compelled me, but I did show</b></p> <p>25 <b>up, and then you issued a second more burdensome</b></p>

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161	<p>1 subpoena. I felt threatened through this entire</p> <p>2 process, and no one seems to be listening to me.</p> <p>3 Q. Okay.</p> <p>4 A. And I'm asking for help.</p> <p>5 Q. How many copies -- you said that you</p> <p>6 received an excerpt of the Rule 26(a) initial</p> <p>7 disclosures?</p> <p>8 A. Yes. We reviewed that earlier.</p> <p>9 Q. Right. How many copies have you</p> <p>10 received of those initial disclosures?</p> <p>11 A. I think the one from you.</p> <p>12 Q. Okay.</p> <p>13 A. I think -- I know for a fact the full</p> <p>14 one came from you.</p> <p>15 Q. Okay.</p> <p>16 A. I thought -- it was very eye-opening</p> <p>17 to see all of those other names on that 26(a)</p> <p>18 disclosure who -- you know, were they put through</p> <p>19 this same harassment that I'm being put through?</p> <p>20 Q. But you received one copy from</p> <p>21 Mr. Shearer. Have you received any other copies</p> <p>22 from Mr. Shearer?</p> <p>23 A. I received like an edited,</p> <p>24 slimmed-down copy from Mr. Shearer. If there was</p> <p>25 something else, maybe, but I don't know. I don't</p>	163	<p>1 MR. BYRNE: Thank you.</p> <p>2 BY MS. COOPER:</p> <p>3 Q. Do you recognize this document?</p> <p>4 A. I do. You sent this to me.</p> <p>5 Q. Okay. Did you receive a copy of this</p> <p>6 from anyone else?</p> <p>7 A. I think I got a copy in the mail.</p> <p>8 Q. From me or from --</p> <p>9 A. No, from the court.</p> <p>10 Q. Okay. When the court -- since you</p> <p>11 don't have electronic filings, when the court</p> <p>12 issues an order, how do you find out about it?</p> <p>13 A. I get a copy in the mail or I'll</p> <p>14 update PACER in the morning.</p> <p>15 Q. Okay.</p> <p>16 A. I'll just like refresh.</p> <p>17 Q. Okay.</p> <p>18 A. So if something is posted, I don't</p> <p>19 see the document. I can't click on the documents,</p> <p>20 but I'll see like the summary.</p> <p>21 Q. So that you can see that something</p> <p>22 has been entered, but you don't necessarily see</p> <p>23 what the document is?</p> <p>24 A. Right.</p> <p>25 Q. Okay. You update PACER how often?</p>
162	<p>1 think so.</p> <p>2 Q. Because in your 72(a) motion on page</p> <p>3 11, you write: Mr. Eidelman and Ms. Cooper remain</p> <p>4 listed as my counsel on their 26(a) disclosure</p> <p>5 until September 27, 2018. How do you know that?</p> <p>6 MR. SHEARER: Objection to the extent</p> <p>7 that that requires her to testify as to any</p> <p>8 conversation with counsel.</p> <p>9 BY MS. COOPER:</p> <p>10 Q. Okay. You may answer.</p> <p>11 A. I may have had a conversation, but it</p> <p>12 was in regards to what I'm filing for my OCRC</p> <p>13 case.</p> <p>14 Q. Okay.</p> <p>15 (Thereupon, Kelly Exhibit 8, a</p> <p>16 2-page, 2-sided Notice of Electronic Filing dated</p> <p>17 10/9/18, was marked for purposes of</p> <p>18 identification.)</p> <p>19 BY MS. COOPER:</p> <p>20 Q. I'm going to show you what we marked</p> <p>21 as Exhibit 8.</p> <p>22 MR. BYRNE: Can I request real quick,</p> <p>23 the last document dated the 27th, did that have a</p> <p>24 number?</p> <p>25 MS. COOPER: 22.</p>	164	<p>1 A. Maybe just in the morning.</p> <p>2 Q. Okay.</p> <p>3 A. Because I guess it doesn't do a live</p> <p>4 update. You have to pay for that, and I don't</p> <p>5 have the means to pay to update the web page --</p> <p>6 Q. Okay.</p> <p>7 A. -- throughout the day.</p> <p>8 Q. Okay. So this is Judge Dlott's order</p> <p>9 dated October 9th, 2018?</p> <p>10 A. Um-hmm.</p> <p>11 Q. And the order says that: Ms. Kelly</p> <p>12 must bring any and all documents in her possession</p> <p>13 as requested in this subpoena previously issued</p> <p>14 for the August 31, 2018 deposition. And it sets</p> <p>15 forth, you know, confirming that the motion to</p> <p>16 compel is affirmed and that the 72(a) motion is</p> <p>17 denied.</p> <p>18 Did you discuss this order with</p> <p>19 anyone?</p> <p>20 A. Yes, because I was confused because</p> <p>21 she didn't specifically state what was under this</p> <p>22 Docket 21. So basically, when I asked her to</p> <p>23 review this, I wanted to know exactly what she was</p> <p>24 going to rule for the motion to compel, which was</p> <p>25 No. 1. I have asked for clarification, I'm still</p>

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165	<p>1 <b>waiting on that.</b></p> <p>2 Q. I'm sorry. What do you mean? I'm</p> <p>3 not sure --</p> <p>4 <b>A. Because it doesn't specifically say</b></p> <p>5 <b>what she's ruling on the motion to compel.</b></p> <p>6 Q. But the order says it's affirming the</p> <p>7 judge's order to compel your deposition; is that</p> <p>8 correct?</p> <p>9 <b>A. Um-hmm.</b></p> <p>10 Q. So what other clarification --</p> <p>11 <b>A. It doesn't state the docket. I just</b></p> <p>12 <b>asked for clarification, and you'll see it posted.</b></p> <p>13 <b>I just -- it's on PACER.</b></p> <p>14 Q. Okay. But why do you need to know</p> <p>15 which docket?</p> <p>16 <b>A. I wanted to be able to adequately</b></p> <p>17 <b>prepare for today, so I was asking her for</b></p> <p>18 <b>clarification also on which subpoena we were</b></p> <p>19 <b>referring to. Obviously, it hasn't been either</b></p> <p>20 <b>subpoena because we haven't really talked about</b></p> <p>21 <b>the Barger case. So I'm not sure what that means.</b></p> <p>22 Q. It says, though, the subpoena</p> <p>23 previously issued for the August 31, 2018</p> <p>24 deposition; is that correct?</p> <p>25 <b>A. That's what it states.</b></p>	167	<p>1 Q. Have you reached out to him at all?</p> <p>2 <b>A. I may have.</b></p> <p>3 Q. Has he reached out to you?</p> <p>4 <b>A. I don't know, maybe.</b></p> <p>5 Q. Okay. So you haven't worked for the</p> <p>6 company since November 30th, 2017. Since that</p> <p>7 time, how many conversations have you had with</p> <p>8 Mr. Barger?</p> <p>9 <b>A. Oh, I don't know. I can't tell you</b></p> <p>10 <b>that.</b></p> <p>11 Q. I mean, one -- I mean, it's a little</p> <p>12 less than a year, about 11 months.</p> <p>13 <b>A. I honestly don't know.</b></p> <p>14 Q. But you have spoken to him?</p> <p>15 <b>A. Of course.</b></p> <p>16 Q. Okay. At any time did he or somebody</p> <p>17 acting on his behalf contact you about being a</p> <p>18 witness in this case?</p> <p>19 <b>A. Did he -- can you repeat the</b></p> <p>20 <b>question?</b></p> <p>21 Q. Did Mr. Barger ever contact you about</p> <p>22 being a witness in this case?</p> <p>23 <b>A. No.</b></p> <p>24 Q. Did Mr. Barger's attorneys ever</p> <p>25 contact you about being a witness in this case?</p>
166	<p>1 Q. Okay. So with all of the filings in</p> <p>2 this case that you have filed in the miscellaneous</p> <p>3 action, how many people have you discussed the</p> <p>4 motions or the writings or the research with?</p> <p>5 <b>A. Oh, I don't know.</b></p> <p>6 Q. You know, one, two, five, ten?</p> <p>7 <b>A. I'm not sure, and anyone can read it</b></p> <p>8 <b>online.</b></p> <p>9 Q. Right.</p> <p>10 <b>A. It's public.</b></p> <p>11 Q. I'm curious about who you discussed</p> <p>12 it with.</p> <p>13 <b>A. Yeah. I'm not sure.</b></p> <p>14 Q. Okay. So you've discussed it with</p> <p>15 all of these people. What have you discussed with</p> <p>16 Steve Barger?</p> <p>17 <b>A. About this? Nothing.</b></p> <p>18 Q. Why not?</p> <p>19 <b>A. I don't call -- I don't talk to him</b></p> <p>20 <b>every day. He's a busy man.</b></p> <p>21 Q. Yes. But this is his case, it's his</p> <p>22 lawsuit, so why not talk about this case with --</p> <p>23 why talk about this case with other people and not</p> <p>24 him?</p> <p>25 <b>A. I don't know.</b></p>	168	<p>1 <b>A. No.</b></p> <p>2 Q. Did Brenda Barger ever contact you</p> <p>3 about being a witness in this case?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Okay. Did you ever receive any sort</p> <p>6 of questionnaire about your employment with First</p> <p>7 Data from either Mr. Barger or his attorneys?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Okay. Did Mr. Barger ever contact</p> <p>10 you about a letter of recommendation?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Okay. When was that?</p> <p>13 <b>A. Oh, I don't know, maybe last summer,</b></p> <p>14 <b>last spring. I don't know.</b></p> <p>15 Q. Were you still working for the</p> <p>16 company when he reached out to you?</p> <p>17 <b>A. I don't know. Probably.</b></p> <p>18 Q. That e-mail, is it in the documents</p> <p>19 that you provided here today?</p> <p>20 <b>A. Yeah.</b></p> <p>21 Q. So what did he ask you for?</p> <p>22 <b>A. Just a letter of recommendation or</b></p> <p>23 <b>maybe it was a LinkedIn recommendation, I can't</b></p> <p>24 <b>remember.</b></p> <p>25 Q. Okay.</p>

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43 (169 to 172)

<p style="text-align: right;">169</p> <p>1 (Thereupon, Kelly Exhibit 23, a</p> <p>2 1-page document titled Confidential, from Julie</p> <p>3 Kelly, Bates SBB-00780, was marked for purposes of</p> <p>4 identification.)</p> <p>5 BY MS. COOPER:</p> <p>6 Q. I'm going to show you what has been</p> <p>7 marked as Exhibit 23. Do you recognize this</p> <p>8 document?</p> <p>9 <b>A. I do.</b></p> <p>10 Q. What is this document?</p> <p>11 <b>A. This is what I wrote for Steve.</b></p> <p>12 Q. Okay. And so for the record, this</p> <p>13 has been marked as SBB 000780, that's the Bates</p> <p>14 number on this document. And this is an e-mail</p> <p>15 that you wrote or looks like a letter that you</p> <p>16 wrote about Mr. Barger. So you wrote: During</p> <p>17 this time, Steve was a leader like none other.</p> <p>18 Tell me a little bit about how you believe Steve</p> <p>19 or Mr. Barger was a leader like no other.</p> <p>20 <b>A. I think I had talked about this a</b></p> <p>21 <b>little bit earlier, but he really had a</b></p> <p>22 <b>charismatic aura around him. Is that what I</b></p> <p>23 <b>wrote?</b></p> <p>24 Q. Yeah.</p> <p>25 <b>A. I just saw that. And, you know, he's</b></p>	<p style="text-align: right;">171</p> <p>1 in training?</p> <p>2 <b>A. Well, when I first started working</b></p> <p>3 <b>with him, we were taking one of his -- I'm not</b></p> <p>4 <b>sure if it was published programs, we were taking</b></p> <p>5 <b>one of his programs that he wrote and</b></p> <p>6 <b>transitioning that into something that he was</b></p> <p>7 <b>going to facilitate and train all of the First</b></p> <p>8 <b>Data sales force for. And when I saw that</b></p> <p>9 <b>program, it was amazing. It was one of the best</b></p> <p>10 <b>I've ever seen for involving people. It wasn't</b></p> <p>11 <b>just a PowerPoint you throw up on the screen, you</b></p> <p>12 <b>know, people were doing activities and he was</b></p> <p>13 <b>getting involved with people. And when I had the</b></p> <p>14 <b>opportunity to work with him on that to bring it</b></p> <p>15 <b>into First Data, it really led me to see exactly</b></p> <p>16 <b>what his experience was right there in front of</b></p> <p>17 <b>me.</b></p> <p>18 Q. What was the name of that program?</p> <p>19 <b>A. I think it was: It's Your Business,</b></p> <p>20 <b>Own It, something like that.</b></p> <p>21 Q. Okay. And that was -- you said it</p> <p>22 wasn't a PowerPoint. I'm just trying to get an</p> <p>23 idea of what it was.</p> <p>24 <b>A. I mean, there were different</b></p> <p>25 <b>components to it. There were worksheets, there</b></p>
<p style="text-align: right;">170</p> <p>1 very respectful. He knew training, you could tell</p> <p>2 he had done it for many years, but he also kept up</p> <p>3 with technology. He kept up with the changing of</p> <p>4 the generations, and he really understood a</p> <p>5 passion of mine, which was measuring the</p> <p>6 effectiveness of training, and really pushed us to</p> <p>7 look for new and innovative ways to have blended</p> <p>8 learning programs, and virtual learning programs,</p> <p>9 and hands-on experience training.</p> <p>10 Q. What is a blended learning program?</p> <p>11 <b>A. So that might be something where if</b></p> <p>12 <b>you think about maybe you take a refresher law</b></p> <p>13 <b>course about ethics online maybe through</b></p> <p>14 <b>University of Phoenix or something, right, and you</b></p> <p>15 <b>go on and you get into a classroom with other</b></p> <p>16 <b>people and you have an instructor, might be on</b></p> <p>17 <b>video, and you're learning about your topics, and</b></p> <p>18 <b>then you go off and do an assignment in a group,</b></p> <p>19 <b>maybe in a chat room. So it's pulling in many</b></p> <p>20 <b>different types of learning.</b></p> <p>21 Q. Okay. You said that, you know, it</p> <p>22 was obvious that he had a lot of experience in the</p> <p>23 training area.</p> <p>24 <b>A. Um-hmm.</b></p> <p>25 Q. What do you know about his experience</p>	<p style="text-align: right;">172</p> <p>1 were workbooks that you went there, there were</p> <p>2 some virtual pieces, some video, some lecture, all</p> <p>3 different types of things.</p> <p>4 Q. Was this something that was created</p> <p>5 when he was at First Data?</p> <p>6 <b>A. Yeah.</b></p> <p>7 Q. Okay. So were you involved --</p> <p>8 <b>A. Oh, originally? I'm not sure. We</b></p> <p>9 <b>came in and this was something that he -- you</b></p> <p>10 <b>could tell he was passionate about. I'm sure he</b></p> <p>11 <b>built it, and he's trained millions or probably</b></p> <p>12 <b>thousands of people on similar concepts.</b></p> <p>13 Q. Okay. Are you aware of any other</p> <p>14 positions he's had that involved training besides</p> <p>15 the position that he's had at First Data?</p> <p>16 <b>A. I'm sure I've read his biography and</b></p> <p>17 <b>talked to him about it before, but not off the top</b></p> <p>18 <b>of my head.</b></p> <p>19 Q. Okay.</p> <p>20 <b>A. No, sorry.</b></p> <p>21 Q. You also mentioned, you know, him</p> <p>22 staying up-to-date or ahead of the technology.</p> <p>23 <b>A. Um-hmm.</b></p> <p>24 Q. So tell me a little bit about that.</p> <p>25 What sort of technology are you talking about, how</p>

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44 (173 to 176)

173	<p>1 did he, you know, stay ahead of it?</p> <p>2 <b>A. So he was really receptive to</b></p> <p>3 <b>different types of technology, and, you know, we</b></p> <p>4 <b>had the implementing of the Clover device, right,</b></p> <p>5 <b>and how that, you know, can track all types of</b></p> <p>6 <b>things that merchants are doing. And I'm not sure</b></p> <p>7 <b>what it's called now, but there was a product</b></p> <p>8 <b>called Insightics that, you know, is really</b></p> <p>9 <b>tracking everything merchants do, and, you know,</b></p> <p>10 <b>being able to -- you know, then merchants can I</b></p> <p>11 <b>guess buy a subscription to it and see all of this</b></p> <p>12 <b>data. And, you know, he would catch onto the</b></p> <p>13 <b>different technologies.</b></p> <p>14 <b>We also had a different website that</b></p> <p>15 <b>we put together. We also had this fantastic</b></p> <p>16 <b>innovative learning lab that we put together where</b></p> <p>17 <b>the students, they were new hires, they would go</b></p> <p>18 <b>through different scenarios that we wrote to give</b></p> <p>19 <b>them hands-on experience on what they would see</b></p> <p>20 <b>out in the real world, and we were tracking that</b></p> <p>21 <b>with iPads and different experiences. And he</b></p> <p>22 <b>really allowed us to do some really cool things.</b></p> <p>23 <b>Q. Okay.</b></p> <p>24 <b>A. I'm probably rambling, I'm sorry.</b></p> <p>25 <b>Q. No. Some of it I asked because</b></p>	175	<p>1 <b>business solutions versus a better rate and fee</b></p> <p>2 <b>with a little swiper.</b></p> <p>3 <b>Q. Okay. And so how was the training</b></p> <p>4 <b>group involved in, I guess, the rollout of that</b></p> <p>5 <b>technology or the implementation of that</b></p> <p>6 <b>technology?</b></p> <p>7 <b>A. Yeah. So back then, this was</b></p> <p>8 <b>probably 2012, maybe '13, early '13, when we first</b></p> <p>9 <b>got involved, and this is pretty standard on how</b></p> <p>10 <b>we used to work when there was a new product or</b></p> <p>11 <b>software that was rolled out. Training got</b></p> <p>12 <b>involved very upfront so that we could understand,</b></p> <p>13 <b>and we could either work with the vendors or work</b></p> <p>14 <b>with the internal product folks who were putting</b></p> <p>15 <b>out the product, and we would really learn it</b></p> <p>16 <b>because we then had to determine what type of</b></p> <p>17 <b>learning intervention needed to happen to transfer</b></p> <p>18 <b>that new product, how they were going to sell it.</b></p> <p>19 <b>And it's not just futures and</b></p> <p>20 <b>benefits of a new product, right, it's how to sell</b></p> <p>21 <b>it, it's the value of it, and it's so much more</b></p> <p>22 <b>than, okay, I'm going to teach you how to do a</b></p> <p>23 <b>sale, right, I mean. So it's a lot, there's a lot</b></p> <p>24 <b>that goes into it doing that analysis, and then</b></p> <p>25 <b>you really have to design that program, obviously,</b></p>
174	<p>1 there's a lot of terminology that's used I feel</p> <p>2 like in the training world and I just don't know</p> <p>3 what some of it is.</p> <p>4 <b>A. I'm really passionate, so I'm going</b></p> <p>5 <b>to ramble.</b></p> <p>6 <b>Q. Clover, so I know a little bit about</b></p> <p>7 <b>Clover from like personal experience.</b></p> <p>8 <b>A. Sure.</b></p> <p>9 <b>Q. But can you tell me a little bit</b></p> <p>10 <b>about that technology?</b></p> <p>11 <b>A. Yeah. So I was a part of the group</b></p> <p>12 <b>who -- when we originally brought it to First</b></p> <p>13 <b>Data, I was part of the original group, and,</b></p> <p>14 <b>again, it was a great experience. We had code</b></p> <p>15 <b>names for it back then before we acquired them.</b></p> <p>16 <b>But basically, it was going to change the payments</b></p> <p>17 <b>scape and really give our merchants a device that</b></p> <p>18 <b>they could use to -- and these are small, at the</b></p> <p>19 <b>time it was small merchants -- to really manage</b></p> <p>20 <b>their whole business versus just having a credit</b></p> <p>21 <b>card machine and they had to go do inventory</b></p> <p>22 <b>somewhere else and they had to do their payroll</b></p> <p>23 <b>somewhere else. This was putting everything,</b></p> <p>24 <b>similar to an iPad, in one location for them to</b></p> <p>25 <b>manage their business. So offering our merchants</b></p>	176	<p>1 <b>get approval, right, and then start developing.</b></p> <p>2 <b>It takes a lot of folks, and, again, it depends on</b></p> <p>3 <b>how big the product is or solution or methodology</b></p> <p>4 <b>or process before it goes through all of these</b></p> <p>5 <b>levels.</b></p> <p>6 <b>Q. You said that was 2012, 2013?</b></p> <p>7 <b>A. For Clover, yeah, I'm guessing.</b></p> <p>8 <b>Q. Okay. But that was before Mr. Barger</b></p> <p>9 <b>was at First Data?</b></p> <p>10 <b>A. Yeah.</b></p> <p>11 <b>Q. Okay. So at some point, did you --</b></p> <p>12 <b>did you learn at any point that Mr. Barger was ill</b></p> <p>13 <b>or had been sick?</b></p> <p>14 <b>A. I did, um-hmm.</b></p> <p>15 <b>Q. When did you learn that?</b></p> <p>16 <b>A. Again, I don't know exact dates, but</b></p> <p>17 <b>it was probably on a leadership call, he let us</b></p> <p>18 <b>know.</b></p> <p>19 <b>Q. And what did he tell you?</b></p> <p>20 <b>A. I don't think he knew at first what</b></p> <p>21 <b>was going on, so -- and it's been awhile. He may</b></p> <p>22 <b>have said he's going for check-ups, and then I</b></p> <p>23 <b>think he did some radiation to try to get rid of</b></p> <p>24 <b>things first before he had to go into surgery and</b></p> <p>25 <b>get the stoma put in.</b></p>

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<p style="text-align: right;">177</p> <p>1 Q. Okay. Just so we're clear on the</p> <p>2 record, so what did you -- what illness or disease</p> <p>3 did you believe that he had or did you learn?</p> <p>4 <b>A. Throat cancer.</b></p> <p>5 Q. Throat cancer?</p> <p>6 <b>A. Um-hmm.</b></p> <p>7 Q. Okay. And you don't recall when you</p> <p>8 first learned that information?</p> <p>9 <b>A. I don't. Maybe the summer. Yeah, I</b></p> <p>10 <b>don't want to speculate.</b></p> <p>11 Q. Okay. Did Mr. Barger take any --</p> <p>12 well, actually, before I go there, so he told you</p> <p>13 about it on a call, I think you mentioned?</p> <p>14 <b>A. I'm thinking -- I probably shouldn't</b></p> <p>15 <b>have said that. I don't remember what it was, but</b></p> <p>16 <b>more than likely, it was a call because I was in</b></p> <p>17 <b>Cincinnati and he was in Atlanta.</b></p> <p>18 Q. Okay. Did he talk about it on any</p> <p>19 other occasion?</p> <p>20 <b>A. Maybe to give us an update of his</b></p> <p>21 <b>progress.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. Not often.</b></p> <p>24 Q. Okay. But he did mention that he had</p> <p>25 been diagnosed and was seeking treatment?</p>	<p style="text-align: right;">179</p> <p>1 <b>A. Through the whole thing until he</b></p> <p>2 <b>was -- I guess he was told he had to go out on</b></p> <p>3 <b>leave.</b></p> <p>4 Q. Okay. So how often did you hear from</p> <p>5 Mr. Barger during this time period?</p> <p>6 <b>A. Daily.</b></p> <p>7 MR. SHEARER: Objection, objection.</p> <p>8 You may proceed.</p> <p>9 THE WITNESS: I can't remember</p> <p>10 honestly. I mean, First Data has access to all of</p> <p>11 my work e-mails.</p> <p>12 BY MS. COOPER:</p> <p>13 Q. I'm just asking what you recall about</p> <p>14 it.</p> <p>15 <b>A. I recall that he was always active,</b></p> <p>16 <b>quite honestly.</b></p> <p>17 Q. Okay. And you mentioned that at some</p> <p>18 point, he took leave or went out on leave?</p> <p>19 <b>A. Yeah.</b></p> <p>20 Q. What do you know about those</p> <p>21 circumstances?</p> <p>22 <b>A. I just know that we were told it</b></p> <p>23 <b>was -- I can't remember who was on the call, and I</b></p> <p>24 <b>may -- there are some things in my files you'll</b></p> <p>25 <b>see, but I think I had some conversations with</b></p>
<p style="text-align: right;">178</p> <p>1 <b>A. Yeah. I mean, we would ask, of</b></p> <p>2 <b>course. I mean, we were concerned about him, like</b></p> <p>3 <b>he would be concerned about us.</b></p> <p>4 Q. Okay. Did any employees ever</p> <p>5 complain to you or anybody else that you might</p> <p>6 have heard about Mr. Barger sharing the details of</p> <p>7 his illness?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Okay. Did you ever go to anybody and</p> <p>10 complain that Mr. Barger had been sharing certain</p> <p>11 details about his diagnosis?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Okay. Did Mr. Barger take any time</p> <p>14 off after he was diagnosed?</p> <p>15 <b>A. There might have been days. I didn't</b></p> <p>16 <b>manage his out-of-office or days off, so I</b></p> <p>17 <b>wouldn't -- I wouldn't know. He always seemed to</b></p> <p>18 <b>be working.</b></p> <p>19 Q. Okay. And so what do you mean by he</p> <p>20 always seemed to be working?</p> <p>21 <b>A. Even when he was -- you know, we</b></p> <p>22 <b>would hear that he's scheduled to go out for</b></p> <p>23 <b>surgery, and he would still be reading e-mails,</b></p> <p>24 <b>responding, getting project updates.</b></p> <p>25 Q. Okay. Do you recall when that was?</p>	<p style="text-align: right;">180</p> <p>1 <b>Ms. Ording that she was going to take over in the</b></p> <p>2 <b>interim while Steve was getting better.</b></p> <p>3 Q. Okay. When was that, about?</p> <p>4 <b>A. I want to say mid November 2016.</b></p> <p>5 Q. Yes.</p> <p>6 <b>A. Yeah.</b></p> <p>7 Q. Yeah. Okay. So you found out that</p> <p>8 Ms. Ording was going to take over as interim head</p> <p>9 of the group?</p> <p>10 <b>A. Um-hmm.</b></p> <p>11 Q. What were the first sort of -- I</p> <p>12 don't want to say changes or, you know, what did</p> <p>13 Ms. Ording do when she took over as the interim</p> <p>14 role?</p> <p>15 <b>A. I think it was similar to what anyone</b></p> <p>16 <b>would do when they're going to take on a new</b></p> <p>17 <b>organization, they want to get to know you, what</b></p> <p>18 <b>you do.</b></p> <p>19 Q. How did Ms. Ording do that?</p> <p>20 <b>A. We probably had phone calls. Again,</b></p> <p>21 <b>I don't want to speculate. First Data has my</b></p> <p>22 <b>calendar, they could probably look it up.</b></p> <p>23 Q. When Ms. Ording took over as interim</p> <p>24 head, how did things change in the group?</p> <p>25 <b>A. Morale went down. I think there were</b></p>

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181	<p>1 a lot of unknown questions on what happened</p> <p>2 because all of a sudden, you know, our beloved</p> <p>3 boss was not there. No one was talking like what</p> <p>4 had happened, how he was. You know, it was kind</p> <p>5 of like, boom, he's gone.</p> <p>6 Q. I just want to -- I'm talking about</p> <p>7 November 2016 when he went out.</p> <p>8 A. So am I, yeah.</p> <p>9 Q. I just wanted to make sure.</p> <p>10 A. Um-hmm.</p> <p>11 Q. Okay.</p> <p>12 A. I'm not sure or clear on FMLA laws.</p> <p>13 I don't know if they cut off e-mail access, I</p> <p>14 don't know. I know I've been out on leave for</p> <p>15 having children, and, gosh, I just did not have</p> <p>16 time to touch e-mails, so I don't know. I don't</p> <p>17 know.</p> <p>18 Q. Okay. How did -- so you said morale</p> <p>19 decreased?</p> <p>20 A. Yeah.</p> <p>21 Q. How so?</p> <p>22 A. I think just because it was change</p> <p>23 and people didn't know -- it was very sudden, and</p> <p>24 people didn't know what was going on, because</p> <p>25 Steve would be available, he would be on our Adobe</p>	183	<p>1 Q. Okay. You said not with your team.</p> <p>2 Were there issues with other teams?</p> <p>3 A. I don't know. I can't speculate</p> <p>4 what --</p> <p>5 Q. Okay. What about issues with team</p> <p>6 members when Ms. Ording took over as interim head?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. Are you aware of any issues on</p> <p>9 your team?</p> <p>10 A. Which team? Our teams changed</p> <p>11 drastically, so it would --</p> <p>12 Q. So how did the team change, then,</p> <p>13 when Ms. Ording took over?</p> <p>14 A. We were downsized quite a bit.</p> <p>15 Q. Okay. By how many people?</p> <p>16 A. I don't know.</p> <p>17 Q. Or if you can give me like a</p> <p>18 percentage?</p> <p>19 A. I don't know. It was a very</p> <p>20 stressful time. I don't know. I'm sure First</p> <p>21 Data can look up in their books the numbers of</p> <p>22 what they cut.</p> <p>23 Q. Okay. What about it was stressful?</p> <p>24 A. Being responsible for almost -- you</p> <p>25 know, somewhat responsible for people losing their</p>
182	<p>1 Connect session, we set it up specifically for him</p> <p>2 so that he could -- and I did this myself, so that</p> <p>3 he could participate, so he could chat with</p> <p>4 everyone.</p> <p>5 Q. What is Adobe Connect?</p> <p>6 A. It's a virtual connection platform</p> <p>7 where you can have video, you can have chat, you</p> <p>8 can do all kinds of things.</p> <p>9 Q. You set this up for Mr. Barger?</p> <p>10 A. I did, um-hmm.</p> <p>11 Q. When was that?</p> <p>12 A. I don't -- I don't know. Sometime in</p> <p>13 the fall probably of that year.</p> <p>14 Q. Okay. So you talked -- or you said</p> <p>15 morale dropped. I want to talk about issues with</p> <p>16 team members. Were there any issues with team</p> <p>17 members when Barger was head of the group before</p> <p>18 Ms. Ording took over?</p> <p>19 A. Not with my team.</p> <p>20 Q. Who do you put into your team, who do</p> <p>21 you consider?</p> <p>22 A. My instructional developers.</p> <p>23 Q. How many people?</p> <p>24 A. I probably had five or six at the</p> <p>25 time in Omaha, all over.</p>	184	<p>1 jobs and their families.</p> <p>2 Q. Okay. What is a line of business</p> <p>3 quarterly review?</p> <p>4 A. A line?</p> <p>5 Q. A line -- LOB quarterly review, a</p> <p>6 line of business.</p> <p>7 A. This was probably -- gosh, okay.</p> <p>8 These were meetings that were set up I believe by</p> <p>9 Dan Charron, maybe his admin, to get an update</p> <p>10 from your organization on a quarterly review.</p> <p>11 They were often canceled.</p> <p>12 Q. Okay. Did you ever attend any of</p> <p>13 these quarterly reviews while Barger was --</p> <p>14 A. I did not.</p> <p>15 Q. You did not?</p> <p>16 A. I helped prepare materials, but I did</p> <p>17 not attend.</p> <p>18 Q. Okay. Did you ever attend one of</p> <p>19 these calls when Ms. Ording oversaw the group?</p> <p>20 A. I did not. I helped prepare</p> <p>21 materials, but I did not attend.</p> <p>22 Q. Okay. So you've never attended one</p> <p>23 of these calls with Mr. Barger?</p> <p>24 A. No.</p> <p>25 Q. Okay. So when did you learn that</p>

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47 (185 to 188)

<p style="text-align: right;">185</p> <p>1 Mr. Barger wasn't going to be returning to work?</p> <p>2 <b>A. I think in January 2016.</b></p> <p>3 Q. Okay.</p> <p>4 <b>A. '17.</b></p> <p>5 Q. '17?</p> <p>6 <b>A. '17.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. Yeah.</b></p> <p>9 Q. Who told you?</p> <p>10 <b>A. I believe it was a call with</b></p> <p>11 <b>Ms. Ordning and Mr. Marino, but I -- can I redact</b></p> <p>12 <b>that because I don't know. I can't remember.</b></p> <p>13 Q. That's fine.</p> <p>14 <b>A. Yeah.</b></p> <p>15 Q. But it wasn't -- was it Mr. Barger</p> <p>16 who told you that he wasn't coming back?</p> <p>17 <b>A. No. It was a conference call. I</b></p> <p>18 <b>think we were expecting him, and all of a sudden,</b></p> <p>19 <b>we had this meeting instead that said that he</b></p> <p>20 <b>wasn't coming.</b></p> <p>21 Q. Okay. You talked a little bit about</p> <p>22 people lost their jobs during this time period.</p> <p>23 <b>A. (Nodding head.)</b></p> <p>24 Q. How many people on your team or in</p> <p>25 your group lost their job?</p>	<p style="text-align: right;">187</p> <p>1 Let's take the last 5-minute break now.</p> <p>2 THE WITNESS: That's good.</p> <p>3 (Brief recess.)</p> <p>4 (Thereupon, Kelly Exhibit 24,</p> <p>5 multiple documents, the top being a 4-page e-mail</p> <p>6 dated 10/2/18 to Gary Eidelman from Julie Kelly,</p> <p>7 was marked for purposes of identification.)</p> <p>8 BY MS. COOPER:</p> <p>9 Q. So what I'm going to enter as Exhibit</p> <p>10 24 -- so you brought a bunch of documents with you</p> <p>11 today to the deposition.</p> <p>12 <b>A. (Nodding head.)</b></p> <p>13 Q. I have briefly gone through them. I</p> <p>14 have not read every page in here, but I will enter</p> <p>15 the entire stack that you brought as Exhibit 24.</p> <p>16 This way we just have one complete copy of all of</p> <p>17 the documents you brought here.</p> <p>18 How did you search your records for</p> <p>19 documents that were responsive to the subpoena?</p> <p>20 <b>A. I just searched. I took each --</b></p> <p>21 <b>actually, I took the list that you sent me and</b></p> <p>22 <b>just went through and searched for what you asked</b></p> <p>23 <b>in each item in my e-mail, my documents.</b></p> <p>24 Q. Okay. Earlier, you mentioned a cloud</p> <p>25 that you have. Did you search the cloud?</p>
<p style="text-align: right;">186</p> <p>1 <b>A. I don't remember.</b></p> <p>2 Q. Okay.</p> <p>3 <b>A. I'm sure First Data has those</b></p> <p>4 <b>numbers.</b></p> <p>5 Q. Okay. But there were people in your</p> <p>6 group who were termed?</p> <p>7 <b>A. Sure, um-hmm.</b></p> <p>8 Q. Do you know why they were termed?</p> <p>9 <b>A. You know, First Data has cuts all the</b></p> <p>10 <b>time. I think they change the name, but</b></p> <p>11 <b>reductions, cuts, I don't know.</b></p> <p>12 Q. Okay. So they were laid off?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Okay. They weren't -- what I'm</p> <p>15 trying to get to is that they weren't termed for</p> <p>16 performance-related issues?</p> <p>17 <b>A. Well, that might be a part of what</b></p> <p>18 <b>they use as far as requirements to select the</b></p> <p>19 <b>people.</b></p> <p>20 Q. Okay. But it wasn't some sort of</p> <p>21 policy violation where that person was fired?</p> <p>22 <b>A. Right. They didn't go through like</b></p> <p>23 <b>an employee performance plan and then get fired,</b></p> <p>24 <b>no.</b></p> <p>25 MS. COOPER: Okay. Got it. Okay.</p>	<p style="text-align: right;">188</p> <p>1 <b>A. Yeah.</b></p> <p>2 Q. Okay. Did you search your cell</p> <p>3 phone?</p> <p>4 <b>A. Yeah.</b></p> <p>5 Q. Okay. Did you have any text messages</p> <p>6 that were responsive?</p> <p>7 <b>A. Not relevant to the case.</b></p> <p>8 Q. Okay. Did you have any text messages</p> <p>9 with Mr. Barger?</p> <p>10 <b>A. I might have a couple. I sent him</b></p> <p>11 <b>pictures of my kids.</b></p> <p>12 Q. Okay. But I don't believe that those</p> <p>13 were produced here?</p> <p>14 <b>A. No. They weren't in relation to this</b></p> <p>15 <b>case.</b></p> <p>16 Q. Okay. But you do have text message</p> <p>17 communications with Mr. Barger?</p> <p>18 <b>A. I have a couple, sure.</b></p> <p>19 Q. Okay. So I want you just to, you</p> <p>20 know, don't -- I ask that you don't unclip it so</p> <p>21 that nothing goes out of order. I just want you</p> <p>22 to take a look and make sure that this looks like</p> <p>23 the documents that you brought here with you</p> <p>24 today.</p> <p>25 MS. COOPER: Can we pause for a</p>

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48 (189 to 192)

189	<p>1 second?</p> <p>2 (Off the record.)</p> <p>3 (Thereupon, Kelly Exhibit 25, a</p> <p>4 multi-page document reflecting from FDC Litigation</p> <p>5 to Julie Kelly, was marked for purposes of</p> <p>6 identification.)</p> <p>7 THE WITNESS: I mean, it looks --</p> <p>8 (nodding head).</p> <p>9 BY MS. COOPER:</p> <p>10 Q. Okay. All right. Thank you. We'll</p> <p>11 put this here. I'm going to show you what has</p> <p>12 been marked as Exhibit 25. So here, you can take</p> <p>13 a look at this and tell me what these</p> <p>14 communications appear to be.</p> <p>15 A. So this is the legal hold I was sent</p> <p>16 on August 4th, 2017 at 5:55 p.m. from an e-mail</p> <p>17 address FDC Litigation, which I think if you look</p> <p>18 at the back page, there's some First Data names</p> <p>19 listed. And I have this so that I understood</p> <p>20 exactly what I needed to preserve in regards to</p> <p>21 the Barger case. It does say at the top: Yes or</p> <p>22 no, do you understand the message below and agree</p> <p>23 to comply? I never did either. I was actually</p> <p>24 expecting someone to reach out to me.</p> <p>25 Q. Okay. You received this August 4th,</p>	191	<p>1 Q. Okay.</p> <p>2 A. Oh, you mean like the first time to</p> <p>3 print them?</p> <p>4 Q. I don't know how many --</p> <p>5 A. I don't know. Probably Friday the</p> <p>6 4th or the 6th, I don't know.</p> <p>7 Q. Why did you print it?</p> <p>8 A. Because I wanted to see -- I wanted</p> <p>9 to have a copy of what was being asked of me.</p> <p>10 Q. Did you send these screen shots to</p> <p>11 anybody?</p> <p>12 A. They were on my phone. No, not that</p> <p>13 I'm aware of, no.</p> <p>14 Q. So you didn't send them to anybody</p> <p>15 else?</p> <p>16 A. Not that I'm aware of, no.</p> <p>17 Q. Not anybody else, but just anybody?</p> <p>18 A. (Shaking head.)</p> <p>19 Q. Okay. Thank you. Since Mr. Barger's</p> <p>20 employment ended at First Data, did you talk to</p> <p>21 him about any other job opportunities?</p> <p>22 A. Did I?</p> <p>23 Q. Yes.</p> <p>24 A. For him?</p> <p>25 Q. For you.</p>
190	<p>1 2017?</p> <p>2 A. That's what it says.</p> <p>3 Q. Okay. Why does it look like -- why</p> <p>4 can I see 11 percent battery or 11 percent and</p> <p>5 then the battery symbol that says 5:17 p.m.?</p> <p>6 A. I got it through an application</p> <p>7 called Good.</p> <p>8 Q. Okay. So are these screen shots?</p> <p>9 A. They appear to be.</p> <p>10 Q. Okay. When did you screen shot them?</p> <p>11 A. 5:17 probably on -- I can't</p> <p>12 speculate, but I'm assuming that day.</p> <p>13 Q. Well, the e-mail was sent at 5:55</p> <p>14 p.m.</p> <p>15 A. Oh, then, yeah, maybe the next day.</p> <p>16 I don't know, quite honestly.</p> <p>17 Q. So why did you screen shot it?</p> <p>18 A. Because I wanted to be clear on what</p> <p>19 was being asked.</p> <p>20 Q. You had the e-mail, correct?</p> <p>21 A. I could not print.</p> <p>22 Q. Could you print the screen shots?</p> <p>23 A. I did, yeah.</p> <p>24 Q. Okay. So when did you print these?</p> <p>25 A. Yesterday.</p>	192	<p>1 A. I did.</p> <p>2 Q. Okay. What were those conversations?</p> <p>3 A. I can't recall exactly, but I wanted</p> <p>4 him to keep me in mind if there might be something</p> <p>5 out there that I would be qualified for.</p> <p>6 Q. Okay. Why were you looking?</p> <p>7 A. Because I was under new management</p> <p>8 that over my entire career in First Data I was</p> <p>9 being asked to do certain things that I didn't</p> <p>10 feel were correct.</p> <p>11 Q. Okay. Did Mr. Barger ever reach out</p> <p>12 to you with any job opportunities?</p> <p>13 A. No.</p> <p>14 (Thereupon, Kelly Exhibit 26, a</p> <p>15 1-page document reflecting Additional</p> <p>16 harassment/threats, was marked for purposes of</p> <p>17 identification.)</p> <p>18 BY MS. COOPER:</p> <p>19 Q. I'm going to show you what we've</p> <p>20 marked as Exhibit 26. What is this document?</p> <p>21 A. Oh, this is my cover page for your</p> <p>22 previous exhibit, the litigation, the legal hold</p> <p>23 e-mail. It states here: E-mail received on</p> <p>24 August 4th.</p> <p>25 Q. Okay.</p>

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49 (193 to 196)

<p style="text-align: right;">193</p> <p>1       <b>A. This just goes in front of that so I</b>  2 <b>know what it is.</b>  3       Q. Okay. It wasn't in that order,  4 though, in --  5       <b>A. Sorry, I don't know if it got mixed</b>  6 <b>up.</b>  7       Q. So you said a cover sheet. Who did  8 you send it to?  9       <b>A. This is for me so I know what that's</b>  10 <b>about.</b>  11       Q. Okay. So you never sent this  12 information to anybody?  13       <b>A. No. This is for you.</b>  14       Q. Okay. So when you did draft this?  15       <b>A. Yesterday.</b>  16       Q. Okay.  17       <b>A. So you just wouldn't see random</b>  18 <b>screen shots.</b>  19       Q. So that's why we have the full stack,  20 this way we have -- if someone read the  21 transcript, they might be a little confused about  22 how the page was --  23       <b>A. I must have mixed it up or it got</b>  24 <b>caught in the printer.</b>  25       Q. I'm just trying to ask the questions</p>	<p style="text-align: right;">195</p> <p>1       <b>A. I must have heard those and I just</b>  2 <b>jotted them down. Typically, I would take more</b>  3 <b>formal notes on my computer, but this must have</b>  4 <b>just been an ad hoc call.</b>  5       Q. Okay.  6       <b>A. So I'm not sure exactly what those</b>  7 <b>are in relevance to.</b>  8       Q. Okay. So where are these notes,  9 then, kept?  10       <b>A. I just have a notebook. I just keep</b>  11 <b>them occasionally for maybe a couple of months --</b>  12       Q. Okay.  13       <b>A. -- and then I pitch them.</b>  14       Q. So these are notes that you took  15 while you were working at First Data?  16       <b>A. Yeah, um-hmm.</b>  17       Q. Okay. And you still have the  18 originals?  19       <b>A. For this one, yeah. I don't have --</b>  20 <b>I got rid of most of my things. It's been over a</b>  21 <b>year, but I did go through to see if I had some</b>  22 <b>things that might be of relevance. I don't know.</b>  23       Q. So the first page is dated November  24 10th, 2016.  25       <b>A. Um-hmm.</b></p>
<p style="text-align: right;">194</p> <p>1 just to have something, if someone reads the  2 record, we know that we're talking about this.  3       <b>A. Yeah. Sorry.</b>  4       Q. Okay.  5       (Thereupon, Kelly Exhibit 27, a  6 3-page, handwritten document dated 11/10/16, was  7 marked for purposes of identification.)  8 BY MS. COOPER:  9       Q. I'm going to show you what we've  10 marked as Exhibit 27. So what are these three  11 pages?  12       <b>A. These are some notes that I took.</b>  13 <b>The first page looks like it was November 10th of</b>  14 <b>2016, looks like it was a conversation between</b>  15 <b>Rhonda Johnson, Justin Stamie, and myself, and I</b>  16 <b>remember Rhonda talking about there was a</b>  17 <b>situation, it might have been an e-mail, and</b>  18 <b>there's a little bit of frustration with</b>  19 <b>Mr. Barger. And she mentioned they were</b>  20 <b>interviewing for two different things. I think it</b>  21 <b>was for Bryan Fricke's backfill because that had</b>  22 <b>yet to be filled. And my suggestion was Dawn</b>  23 <b>Stewart, that's why her name was there.</b>  24       Q. But you said embarrassment,  25 frustration?</p>	<p style="text-align: right;">196</p> <p>1       Q. The second page is November 17th,  2 2016. The third page doesn't appear to be dated.  3       <b>A. Yeah, that's why these actually were</b>  4 <b>in the notebook like this, (indicating).</b>  5       Q. Okay.  6       <b>A. And yeah, I don't know why. I</b>  7 <b>typically had dates and I didn't, and that's the</b>  8 <b>only date that I saw close, so I don't know, but</b>  9 <b>it looks like this was perhaps my first</b>  10 <b>conversation with Ms. Ording about her taking over</b>  11 <b>for Steve. I'm not sure if that's her phone</b>  12 <b>number, but it appears that maybe I called her --</b>  13       Q. Okay.  14       <b>A. -- and we had a conversation, and</b>  15 <b>these were just some of the notes that I just</b>  16 <b>jotted down while we were talking.</b>  17       Q. Okay.  18       (Thereupon, Kelly Exhibit 28, 1 page  19 of e-mails, the top dated 1/13/17 to Julie Kelly  20 from Robin Ording, was marked for purposes of  21 identification.)  22 BY MS. COOPER:  23       Q. I'm going to show you Exhibit 28.  24 What is this document?  25       <b>A. This is an e-mail I sent to</b></p>


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50 (197 to 200)

<p style="text-align: right;">197</p> <p><b>1 Ms. Ording of some concerns I had with the team,</b></p> <p><b>2 and this is when we were awaiting for Steve to</b></p> <p><b>3 come back from his leave.</b></p> <p>4 Q. Okay. So this is not an e-mail that</p> <p>5 has been printed out?</p> <p><b>6 A. No. I took a picture of it, and I</b></p> <p><b>7 think I may have done it because I felt -- I just</b></p> <p><b>8 felt a need to take a picture of it.</b></p> <p>9 Q. Why?</p> <p><b>10 A. Because we were really concerned -- I</b></p> <p><b>11 was really concerned with the leadership of the</b></p> <p><b>12 team at the time --</b></p> <p>13 Q. Okay.</p> <p><b>14 A. -- and the needs of the team and I</b></p> <p><b>15 just wanted -- I mean, I don't know honestly.</b></p> <p>16 Q. Okay.</p> <p><b>17 A. I just felt a need to take it. I</b></p> <p><b>18 have a couple of these.</b></p> <p>19 Q. So it says at the top you forwarded</p> <p>20 this message on 1/13/2017. Do you recall who you</p> <p>21 forwarded it to?</p> <p><b>22 A. I don't.</b></p> <p>23 Q. Okay. Do you still --</p> <p><b>24 A. Because I wrote it on -- I don't -- I</b></p> <p><b>25 mean, First Data has all of my e-mails, so if it's</b></p>	<p style="text-align: right;">199</p> <p>1 MS. COOPER: Okay. Can we pause for</p> <p>2 one moment?</p> <p>3 (Off the record.)</p> <p>4 MS. COOPER: We can go back on the</p> <p>5 record. So at this point, I will -- it is 4:47.</p> <p>6 As you know, we were ordered to be done by 5, so I</p> <p>7 will ask that the receipt which we've talked about</p> <p>8 today, that you provide a copy of that receipt.</p> <p>9 THE WITNESS: Okay. I wrote that</p> <p>10 down.</p> <p>11 MS. COOPER: Okay. And, again, if</p> <p>12 you find any additional documents in the search</p> <p>13 for that receipt, you're always able to supplement</p> <p>14 your document production that you have produced</p> <p>15 today. And with that, I will conclude today's</p> <p>16 deposition. All right.</p> <p>17 THE WITNESS: Okay.</p> <p>18 MS. COOPER: Thank you.</p> <p>19 (Off the record.)</p> <p>20 (Thereupon, Kelly Exhibit 29, a</p> <p>21 1-page Invoice dated 10/15/18, was marked for</p> <p>22 purposes of identification.)</p> <p>23 MS. COOPER: Okay. So I'm going to</p> <p>24 enter as the final exhibit, 29. It's the invoice.</p> <p>25 BY MS. COOPER:</p>
<p style="text-align: right;">198</p> <p><b>1 relevant, I'm sure they can find out.</b></p> <p>2 Q. Okay. Do you still have the original</p> <p>3 picture that you took on your phone or whatever</p> <p>4 device you used?</p> <p><b>5 A. Probably not.</b></p> <p>6 Q. Okay. When did you print this image?</p> <p><b>7 A. I guess yesterday, but I'm not sure</b></p> <p><b>8 if it's embedded in something.</b></p> <p>9 Q. What do you mean?</p> <p><b>10 A. Like a Word document or something. I</b></p> <p><b>11 don't know.</b></p> <p>12 Q. Okay. Did you delete -- do you</p> <p>13 recall deleting this after you printed it</p> <p>14 yesterday from wherever you got it from?</p> <p><b>15 A. No, I don't know.</b></p> <p>16 Q. No or I don't know?</p> <p><b>17 A. No, I didn't delete anything.</b></p> <p>18 Q. Okay. Thank you. You mentioned the</p> <p>19 receipt from the coffee from August 31st, 2018. I</p> <p>20 didn't see that when I went through these</p> <p>21 documents. Do you know if you included that</p> <p>22 receipt?</p> <p><b>23 A. I don't think I did.</b></p> <p>24 Q. Okay. But you have it, you said?</p> <p><b>25 A. I do.</b></p>	<p style="text-align: right;">200</p> <p>1 Q. The invoice is not -- it's for \$375</p> <p>2 for service for three children for baby-sitting.</p> <p>3 There's no company that's issuing this invoice</p> <p>4 noted on the invoice.</p> <p><b>5 A. Right.</b></p> <p>6 Q. So what company issued this invoice?</p> <p><b>7 A. So I'm having a friend, a sitter,</b></p> <p><b>8 watch the children.</b></p> <p>9 Q. Okay. Does this friend have a</p> <p>10 baby-sitting business?</p> <p><b>11 A. No.</b></p> <p>12 Q. Okay. Does the friend normally issue</p> <p>13 invoices for baby-sitting?</p> <p><b>14 A. No. I drafted that up according to</b></p> <p><b>15 her charges. That's why my name is on that.</b></p> <p>16 Q. Okay. Who set the price?</p> <p><b>17 A. They did -- she did.</b></p> <p>18 Q. And so she's charging \$50 an hour for</p> <p>19 baby-sitting?</p> <p><b>20 A. Um-hmm.</b></p> <p>21 MS. COOPER: Okay. We will enter</p> <p>22 this as an exhibit, and I will discuss it with</p> <p>23 First Data, and then we'll be in contact about it.</p> <p>24 THE WITNESS: Okay.</p> <p>25 BY MS. COOPER:</p>

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<p>201</p> <p>1 Q. Actually, what is the name of the</p> <p>2 friend who was baby-sitting?</p> <p>3 <b>A. Aspen.</b></p> <p>4 Q. Aspen?</p> <p>5 <b>A. Aspen Kelly.</b></p> <p>6 Q. Aspen Kelly?</p> <p>7 <b>A. Um-hmm.</b></p> <p>8 Q. Is that a relative?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Okay. How is -- you said it was a</p> <p>11 friend or a --</p> <p>12 <b>A. Yeah, a friend, stepdaughter.</b></p> <p>13 Q. Okay. All right.</p> <p>14 <b>A. Those are typical nanny rates.</b></p> <p>15 Q. Okay.</p> <p>16 (Thereupon, the deposition was</p> <p>17 concluded at 4:50 p.m.)</p> <p>18 * * *</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>203</p> <p>1 STATE OF OHIO )</p> <p>2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE</p> <p>3 I, Lisa M. Conley Yungblut, a Notary</p> <p>4 Public within and for the State of Ohio, duly</p> <p>5 commissioned and qualified,</p> <p>6 DO HEREBY CERTIFY that the</p> <p>7 above-named, JULIE KELLY, was by me first duly</p> <p>8 sworn to testify the truth, the whole truth and</p> <p>9 nothing but the truth.</p> <p>10 Said testimony was reduced to writing</p> <p>11 by me stenographically in the presence of the</p> <p>12 witness and thereafter reduced to typewriting.</p> <p>13 I FURTHER CERTIFY that I am not a</p> <p>14 relative or Attorney of either party, in any</p> <p>15 manner interested in the event of this action, nor</p> <p>16 am I, or the court reporting firm with which I am</p> <p>17 affiliated, under a contract as defined in Civil</p> <p>18 Rule 28(D).</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>202</p> <p>1 I, JULIE KELLY, do hereby certify</p> <p>2 that the foregoing is a true and accurate</p> <p>3 transcription of my testimony.</p> <p>4</p> <p>5</p> <p>6</p> <p>7 _____</p> <p>8 Dated _____</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>204</p> <p>1 IN WITNESS WHEREOF, I have hereunto set my</p> <p>2 hand and seal of office at Dayton, Ohio, on this</p> <p>3 25th day of October, 2018.</p> <p>4</p> <p>5  <i>Lisa M. Conley Yungblut</i></p> <p>6 LISA M. CONLEY YUNGBLUT, RMR, CRR</p> <p>7 NOTARY PUBLIC, STATE OF OHIO</p> <p>8 My commission expires 7-28-2019</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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